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Report of the Special Rapporteur on the human rights of internally displaced persons on his mission to Honduras

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, on his mission to Honduras from 23 to 27 November 2015.

The visit of the Special Rapporteur focused on displacement caused by generalized violence and organized criminal gangs, which is an invisible epidemic affecting whole communities in Honduras, including women and children, who fall prey to gangs known as *maras*. The only option for many people is to leave their homes. Recognition of the internal displacement crisis by the Government is an important step; however, it must strengthen measures to stop and prevent internal displacement and put in place overdue support, protection and assistance measures for internally displaced persons who to date have had to fend for themselves.

Protection measures must be geared towards the phenomenon of displacement related to criminal gangs and tailored to meet the needs of internally displaced persons. Gang-related murders are commonplace, while extortion puts every small business owner at risk in some neighbourhoods. Women and girls are murdered or experience threats, intimidation and sexual violence as a means of control by gang members. Families under threat are coerced into abandoning their homes with no hope of return. Internal displacement is a precursor to migration, as there are no viable options for internally displaced persons that provide safety, security and livelihood in Honduras. Either they are coerced to leave or make the pre-emptive decision to leave, entering into the orbit of "migrant" exploitation. Commonly labelled "economic migrants" by receiving countries, they face expedited deportation processes that do not take account of their genuine protection concerns.

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The Government of Honduras must strengthen legal, policy and institutional frameworks and take comprehensive and concerted action to tackle the root causes of displacement and protect the rights of internally displaced persons. Providing support and viable options for local integration or resettlement should form part of a strategy of durable solutions for them. Priorities must include tackling impunity and rebuilding trust in national institutions, including the police and the criminal justice system, which has been deeply eroded.

Report of the Special Rapporteur on the human rights of internally displaced persons on his mission to Honduras (23-27 November 2015)**

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** Circulated in the language of submission and in Spanish only.

I. Introduction

1. The Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani, visited Honduras at the invitation of the Government from 23 to 27 November 2015. He held consultations with senior Government representatives, as well as representatives of United Nations agencies, national and international civil society and non-governmental organizations (NGOs) and others. The Special Rapporteur takes the present opportunity to thank the Government of Honduras for its excellent cooperation with his mandate and to thank all of those government representatives who met with him and provided information.

2. The Special Rapporteur also met with the United Nations country team, including representatives of the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children's Fund (UNICEF), the United Nations Development Programme (UNDP) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), who provided outstanding support to his mission and information relating to issues of internal displacement. He also visited victims of internal displacement and their representatives. He thanks in particular those community members, activists, teachers and representatives of civil society organizations who met with him and provided essential information. Working in affected communities, they are on the front line of efforts to prevent violence and tackle the root causes of gang membership.

3. The Special Rapporteur's visit focused on displacement caused by generalized violence, particularly by organized criminal gangs. This type of displacement falls within the scope of the 1998 Guiding Principles on Internal Displacement. He welcomes the important recognition by the Government that the problem of internal displacement exists in the country and its acknowledgement that the challenges it presents require research and concerted action to tackle its root causes that are related to criminal gangs and to protect the rights of internally displaced persons in line with international standards, including the Guiding Principles.

4. The Special Rapporteur encountered other concerns relating to internal displacement. He met with representatives of indigenous communities, who informed him of the threat of eviction from their lands, and the impact of business enterprises, extractive industries – particularly mining and logging – and development projects, which have led to their internal displacement. He notes the visit of the Special Rapporteur on the rights of indigenous peoples to Honduras from 2 to 10 November 2015. She conducted an in-depth analysis of the situation of indigenous peoples and will present her report to the Human Rights Council at its thirty-third session. Consequently, the Special Rapporteur on the human rights of internally displaced persons has not included an analysis of the internal displacement issues of indigenous peoples in the present report.

II. Context and experience of violence-induced internal displacement in Honduras

5. While the causes of internal displacement in Honduras are quite different from those resulting from conflict or disaster witnessed in other countries experiencing internal displacement, the impact on the lives of those affected is no less catastrophic. Community members described violence, threats and intimidation, killings of family members, extortion, sexual violence, murder of women and girls, and an environment of such fear and insecurity, often as a result of the activities of gangs known as *maras*, that they felt compelled to leave their homes for other parts of the country or, when their options in

Honduras had been exhausted, to seek safety outside the country. Many described a scenario and its impacts that were similar to those experienced in some conflict situations.

6. The main gangs are the Mara Salvatrucha (MS-13) and the Barrio 18 gangs, while others such as the Los Chirizos, West Side and the Mara 61 are more newly established. Gangs have existed in Honduras for many years and have been involved in a wide variety of criminal activities, including those related to drug trafficking and trade. While some, such as MS-13, originated among immigrant communities in the United States of America and still have a large presence there, actions by the United States authorities to address gang violence beginning in the early 2000s led to the deportation of many gang members. The gangs subsequently re-established their activities in Honduras, El Salvador and Guatemala, resulting in significant changes to gang operations and the level of violence in Honduras.

7. The gang members and structures are most heavily concentrated in the wider city districts of Tegucigalpa, San Pedro Sula and La Ceiba, with smaller concentrations in the municipalities of Choloma, Danlí and El Paraíso. Nevertheless, their networks and influence extend throughout the country.[1] While gangs are largely an urban problem, leading to most research being done in urban areas and municipalities, they have also reportedly established a strong presence in some rural areas.[2] The geographic location of Honduras makes it a transit corridor for drug trafficking from South America to the United States, which has inevitably brought with it criminal networks and structures, frequently involving gangs and gang rivalries.

8. Figures relating to gang membership are extremely difficult to assess and verify due to the nature of gang operations and different understandings of gangs and what constitutes membership. Figures vary widely even between national institutions, with the Honduran police estimating up to 25,000 members, while the National Programme for Prevention, Rehabilitation and Social Reinsertion puts the figure at only 4,728 active members, with a further 447 members in prison.[3] Alternative research suggests that Honduras has an estimated 116,000 gang members, taking into account the membership of all gangs.[4] According to UNICEF, over 4,700 girls, boys and young people belong to a gang in Honduras.[5]

9. Honduras has some of the world's highest homicide rates and unprecedented levels of general criminality, largely as a result of the *maras*. In 2014, the Government registered 66 murders per 100,000 inhabitants, down from 79 per 100,000 in 2013, and a peak of nearly 90 per 100,000 in 2012. The Government considers this to be evidence of the overall success of a strategy of enhanced security that included the deployment of military police in 2012.[6] However, some of the major urban gang areas have murder rates far in excess of the figures cited above, with San Pedro Sula experiencing 187 homicides per 100,000 residents

[1] According to research and analysis by the newspaper *La Prensa*, 60 per cent of the country's Mara Salvatrucha (MS-13) and Barrio 18 gang members are concentrated in three sectors of San Pedro Sula, with gang allegiance split fairly evenly (1,034 belong to MS-13, while the remaining 1,001 form part of Barrio 18). See Kyra Gurney, "A snapshot of Honduras' most powerful street gangs" (2 February 2015). Available from www.insightcrime.org/news-briefs/snapshot-of-honduras-most-powerful-street-gangs.

[2] InSight Crime and Asociación para una Sociedad más Justa, "Gangs in Honduras" (2015). Available from www.insightcrime.org/images/PDFs/2015/HondurasGangs.pdf.

[3] Cited in "Gangs in Honduras".

[4] Gurney, "A snapshot of Honduras' most powerful street gangs".

[5] Marcos González, "UNICEF-supported study sheds light on gangs in Honduras". Available from www.unicef.org/protection/honduras_65204.html.

[6] By comparison, the global average rate was less than 6 per 100,000, and the rate in the United States was less than 5 per 100,000.

in 2013 and 171 in 2014, the highest number of any city in the world. Unverified estimates suggest that 97 per cent of murders go unsolved, creating a level of impunity that encourages further killings.[7]

10. Control of territory has defined much gang activity and confrontation, particularly between the MS-13 and Barrio 18 gangs. The situation was frequently described to the Special Rapporteur as having similarities to territorial conflict, with the major gangs becoming more organized and establishing better systems of operations, communications and finances. The relatively similar number of members of both the MS-13 and Barrio 18 gangs means that neither has become numerically or territorially dominant, and has heightened the likelihood of inter-gang conflict.

11. In June 2009, democratically elected President Manuel Zelaya was ousted by the Honduran Army in the context of his attempts to revise the Constitution. Some commentators consider this to have had led to a significant increase in general levels of violence in the years since, and a legacy of social crisis, impunity and lawlessness, demonstrated in the narrowing of democratic space and the killing of journalists, human rights activists and opposition politicians. There exists an environment of societal distrust of government institutions, the police and military, and continuing corruption and impunity, in which criminality and criminal gangs have flourished.

12. Gangs seek to control territory and communities, and wield considerable power in the relative absence of an effective policing response. The primary responsibility of the State to prevent forced displacement and protect persons from displacement relating to criminal gangs is constrained. Despite Government claims that no territory is out of its control, numerous interviewees stated that *maras* have taken effective control of some neighbourhoods of cities, including Tegucigalpa and San Pedro Sula, imposing their own rules and curfews. It is evident that gang members can conduct their criminal activities with almost absolute impunity and that the criminal justice system is not fulfilling its role.

13. The impact of crime and gangs on young people is evident and disturbing. Violence against children has escalated sharply. In 2014, the media reported that 32 children had been murdered in Honduras in June of that year, bringing to 409 the number of people under the age of 18 killed since January 2013.[8] Some consider this escalation to be partly to blame for a massive increase in unaccompanied child migrants. In some neighbourhoods, children are easy prey for gangs and others involved in criminal activities. Even very young children may be coerced or forcibly recruited into the gang networks, even within schools, which may be infiltrated by gangs. Children are used as drug mules, to carry weapons or as "flags", or lookouts.[9] Parents feel that to escape the influence of gangs they must leave their homes.

14. In violence-affected neighbourhoods, high levels of violence are frequently combined with poverty, inequality and lack of opportunity, which are drivers of migration. Honduras is a middle- to low-income country, with more than two thirds of the population living in poverty and 5 people in 10 suffering from extreme poverty (2012 figures).[10]

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[7] Jeremy Relph, "Dispatch from Honduras: what it's like to live in the murder capital of the world", *Business Insider UK*, 30 October 2014. Available from http://uk.businessinsider.com/murder-capital-san-pedro-sula-2014-10?r=US&IR=T.

[8] Frances Robles, "Fleeing gangs, children head to U.S. border", *New York Times*, 9 July 2014. Available from www.nytimes.com/2014/07/10/world/americas/fleeing-gangs-children-head-to-us-border.html?_r=0.

[9] Research by *La Prensa* suggests that gang members typically start interacting with their gang at around the age of 7 and have been integrated into the group by about age 12.

[10] See www.worldbank.org/en/country/honduras/overview.

Deprivation and lack of opportunity, exacerbated by the presence of the gangs, creates an environment in which young people are particularly vulnerable to the influence of crime. Consequently, the increasing influence of the gangs is partly explained by socioeconomic conditions in the neighbourhoods in which they operate.

15. Extortion has reached epidemic proportions in many localities, in what is referred to by the gangs as a "war tax" imposed on small-business owners, bus and taxi drivers and ordinary citizens. In some cases, multiple demands for payment come from different gangs. Marketplaces in Tegucigalpa have been affected, as stall owners have left to avoid the threats and extortion of the *maras*. For many small businesses around the country, payment to the *maras* has become the only way to continue to operate. Non-payment often results in death, as the *maras* seek to make an example of any who defy them. Extortion has brought bigger financial resources to the gangs and a motivation to control ever larger amounts of territory.

16. Some sectors are particularly affected, including the transport sector, with bus and taxi workers being targeted for one-off and weekly payments. During the visit of the Special Rapporteur, a massacre of drivers took place near San Pedro Sula. According to reports, six men in flak jackets and ski masks got off a bus at a terminal outside the city and shot eight bus drivers one by one.[11] The shocking reality is that non-payment is not an option and those who cannot or refuse to pay have little option but to leave their homes in fear for their lives. A staggering 174 public transportation drivers were killed in 2014, according to the Government. In the first three months of 2015, 34 were killed.[12]

17. The National Anti-Extortion Force was established in 2013 to address the problem. According to the Force, extortion from small businesses and individuals amounts to $200 million annually, while the Chamber of Commerce and Industry of Tegucigalpa estimated that extortion has led to the closure of 18,000 (mainly small) firms and the loss of 72,000 jobs.[13] Extortion has frequently been conducted from inside the prison system. Some prison facilities are under the de facto control of the gangs; recent measures to exert greater control over the prison system have been aimed at curbing extortion activities. The Force has used the slogan "I don't pay, I denounce"; however, it is unclear the extent to which victims have faith in law enforcement mechanisms to protect them.

III. Displacement figures and patterns

18. In 2014, the Inter-Institutional Commission for the Protection of Persons Displaced by Violence, a newly established body, began a research process to ascertain the trends relating to internal displacement, along with its causes, victims and consequences. Under the leadership of the Commission, an inter-agency coordination and participation framework was created, supported by government and civil society institutions and UNHCR, with technical support from the Joint IDP Profiling Service. Civil society organizations, academia, international bodies and the United Nations were also a part of this advisory

[11] An additional seven people were killed in a separate incident in Tegucigalpa in which they were pulled from their homes and shot. See "Fifteen killed in Honduras in two separate massacres", 25 November 2015. Available from www.theguardian.com/world/2015/nov/25/fifteen-killed-in-honduras-in-two-separate-massacres.

[12] Ibid.

[13] Arthur Dhont, "Tougher sentences in Honduras unlikely to reduce gang activity, including murder and extortion", *IHS Jane's 360*, 10 August 2015. Available from www.janes.com/article/53605/tougher-sentences-in-honduras-unlikely-to-reduce-gang-activity-including-murder-and-extortion.

group. The objective was to inform a process for providing reliable and agreed-upon information on internal displacement in Honduras in order to promote the design and implementation of a suitable institutional response.

19. The outcome of the project was a report entitled "Characterization of internal displacement in Honduras". The report was officially launched on 23 November 2015 in the presence of the Special Rapporteur, who welcomed it as an essential and timely analysis that provided the statistical and empirical foundation upon which to build a national policy and action plan to help respond to the phenomenon of internal displacement in Honduras.

20. The report covered 20 of the most affected municipalities in the country and found that some 174,000 persons (around 41,000 households) were internally displaced, while acknowledging that the actual number could be higher throughout the country. Those figures represented 4 per cent of the total households in the selected municipalities.

21. The research found that, for 67.9 per cent of internally displaced households, persecution and insecurity were the only determining factors of their displacement. The main reasons given for leaving were an unsafe community,[14] threats, murder, injury, extortion and sexual violence. While 46 per cent of interviewees refused to identify perpetrators, 28 per cent blamed the *maras* directly for their decision to flee their homes.

22. The research found that most municipalities and departments of origin were also municipalities and departments of destination for internally displaced persons, demonstrating an intra-urban and intraregional pattern to much internal displacement. Some 97 per cent of those displaced in Distrito Central, 81 per cent in San Pedro Sula, 86 per cent in La Ceiba and 60 per cent in Choloma remained in the same municipality. This may be due to factors that include employment and access to services, and the fact that internally displaced persons with an urban profile prefer to relocate to urban areas and that large urban centres offer better anonymity. Internally displaced persons may remain in large cities that they know in order to preserve their family ties and social networks.

23. The households of internally displaced persons were likely to have a higher number of minors than comparison households, which supports anecdotal evidence that families with children may be likely to flee to protect them from recruitment into or the influence of violence and insecurity. Research in educational institutions and among gang members discovered a case in which "in just one school, 22 girls and boys dropped out because of threats from gangs".[15] As part of the study, gang members and former members revealed that most had joined between the ages of 11 and 20.

24. While a vital first step, the report leaves many questions unanswered and reveals numerous challenges that persist with regard to data, research and gaining a full picture of the internal displacement situation and dynamics, including where internally displaced persons are located, their needs and protection issues. There is a need for considerable further investigation in order for all partners to design appropriate responses and ensure service provision to the fullest extent possible. Providing assistance is extremely challenging until such core information is in place.

25. Many internally displaced persons are located with host families or friends, or in rented accommodation, and are therefore difficult to locate and reach with information or

[14] This classification refers to communities where violent events frequently occur, such as confrontations between gangs or massacres, or where inhabitants are exposed to risks because they live there (for example, communities where illegal armed groups exercise social and territorial control).

[15] Programa Nacional de Prevención, Rehabilitación y Reinserción Social, *Situación de Maras y Pandillas en Honduras* (2011), p. 62.

assistance. In view of the nature of their displacement due to threats or violence, some are likely to seek to hide their locations and blend into urban centres where they can be anonymous and invisible to the gangs and the authorities. This makes access to them by authorities or national and international humanitarian organizations extremely difficult.

IV. Impact of violence on communities

26. The Special Rapporteur met with community activists, NGO representatives and teachers from districts around Tegucigalpa affected by gang-related violence. To ensure the safety of those who agreed to be interviewed, he did not travel personally to affected neighbourhoods. Their stories shed light on the impact of the *maras* and detailed a deeply worrying situation of gang influence in neighbourhoods and schools. "They weaken the very system that improves our communities," stated one interviewee. Some noted that previously their concerns had focused on high rates of poverty but that in recent years attention had turned to the impact of violence and displacement, while poverty and unemployment concerns remained.

27. The *maras* cultivate an environment of fear to exert control over territories and entire populations and wage war against rival gangs for the control of territory. Those who were interviewed described the abandonment of homes by families, provoked by gangs, which would happen overnight and without notice, as families decided to move to escape the threats or influence of the gangs on their family members. One person stated: "Many displaced don't know where they are going. We don't know where they go. Your life is at risk so they fear to tell us. Children grow up in an environment of violence." In one area community members estimated that 30 per cent of the population had abandoned their homes, which were then used or appropriated by gang members.

28. Interviewees described their lack of confidence in the police or other Government bodies. Few would bring a complaint for fear of retaliation. One teacher stated "We don't have support from the State. We cannot trust the police so we don't call them." When asked why, one interviewee stated: "Our neighbourhood had its own police station and the police used to lend their uniforms to the *maras*. They would go to people's homes and steal valuables or torture people." One person stated: "If you present a claim to the police, gang members find out. You can't even approach the police or they will think you are talking about them and kill you or have you killed. The gangs always find out."

29. Another resident described gang members hiding in her home when police conducted a search of the neighbourhood, and the fear that her family would be considered accomplices of the gangs. "We are in danger from the gangs and the police," she stated. Another relayed a story of gang members who had come to her house. "My husband thought they had come to kill us. Now he is ill from stress. It is terrible to live where we live."

30. One teacher described how it was unsafe for the school to call parents about the poor behaviour of a child because the child might have brothers in a gang. "It is not safe to fail a child in an exam since you may receive a visit from a gang member … If a child fails, the teacher is to blame." Children dropped out of school due to the influence of or recruitment by gangs, or because their families left the neighbourhood. Due to the gang control of territory, children could not live in one neighbourhood and go to school in another and no inter-school activities could take place across neighbourhoods. Some children just stopped going to school due to the risk. Even for the brightest children, the influence of the gangs was difficult to avoid.

31. Another teacher described a student coming to school with a gun and threatening teachers and students. Children became "mules" or "flags" for the gangs, carrying or hiding weapons in their school bags or reporting activity or the presence of police to gang

members. Teachers described feelings of fear, anxiety and stress that were making them ill, brought about by the conditions described and feeling helpless when *mara* members came into the schools. Even students who succeeded and entered professions might remain influenced by and connected to the *maras*.

32. When people fled to other countries and were forced to return to Honduras, they would not come back to their old communities on account of fear. Community members described the widespread extortion by gangs, known as a "war tax", and related killings when payments were not made. Business people left and it became impossible to open a small business because of the extortion that followed. Asked about the extent of the influence of the gangs, one interviewee stated that, out of eight houses in her block, four were "healthy" and four were "contaminated" by the gangs. Even where there was one gang member in a locality, "others around absorb the culture of that boy," stated one resident. "Very few families have not been affected. Twenty criminals can terrorize 800 people."

33. Nevertheless, community representatives described their hopes that things would improve in the future. Some young people had succeeded despite the challenges and gone on to university. However, the representatives highlighted the fact that the activities of the gangs blighted their lives and neighbourhoods in other, indirect ways. There was little employment in the gang-controlled neighbourhoods and discrimination against those who lived in them. For example, when people sought employment elsewhere, they would not be hired if it was known where they lived.

V. Impact on women, girls and the lesbian, gay, bisexual and transgender community

34. Killings of women and girls increased 355 per cent in the 10 years to 2012, compared with a 97.6 per cent growth in total homicides over the same period. There were 606 femicides in 2012.[16] In 2013, the Observatory of Violence at the National Autonomous University of Honduras estimated that at least one woman was murdered every 13 hours, resulting in 629 total femicides.[17] In July 2014, the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo, visited Honduras and stated that "violence against women is widespread and systematic", highlighting that there was a culture of impunity for crimes against women and girls, and that incidents of violence against women were on the rise. "A climate of fear, in both the public and private spheres, and a lack of accountability for violations of human rights of women are the norm,"[18] she stated.

35. Extremely high levels of domestic violence, femicide and sexual violence are causing women to flee in the knowledge that currently there is widespread impunity for the perpetrators and a criminal justice system which is failing them. While legislative, policy and programmatic measures taken by the Government to fight violence against women are welcome, including amendments to the Penal Code to incorporate femicide as a specific crime, they have done little to stem the rising tide of violence against women.

36. Women and girls frequently experience threats, intimidation and sexual violence by gang members, as well as threats to their family members if they refuse to comply. Some

[16] Figures available from www.resdal.org/seguridad/assets/resdal-index-2013-honduras.pdf.

[17] Dan Beeton, "The legacy children of the Honduran coup", *Al-Jazeera*, 28 June 2014. Available from http://america.aljazeera.com/opinions/2014/6/violence-in-hondurasunaccompaniedminorsimmigrationtous.html.

[18] A/HRC/29/27/Add.1.

displaced women are alone, without resources and extremely vulnerable to sexual abuse and violence and trafficking. Many who flee violence in their homes or communities fall prey to further violence, rape, abuse, exploitation and prostitution, either during their journey or in migrant destinations, including Mexico. It was evident after visits by the Special Rapporteur to centres for returned migrants in the vicinity of San Pedro Sula that no adequate protection systems are in place for such vulnerable women and girls.

37. The example of one anonymous 21-year-old woman whom the Special Rapporteur met was emblematic. She described being forced to leave her home after threats from the *maras* when she sought to help her brothers to leave a gang. Threats led her to seek to join relatives in the United States. She had been identified as an undocumented migrant in the course of her journey and returned to Honduras with few belongings and little or no money. She transited through a migrant return centre near San Pedro Sula and was fearful of returning to the city. Consequently, she was heavily reliant on those around her, including those from people-trafficking gangs. She reported that she had been sexually abused during her journey.

38. The young woman could not be placed in a safe shelter facility due to her age (above the age to be admitted to youth facilities), her status as single without dependent children and the fact that it was known that she faced threats from the *maras*, which could create a risk to others. Incidents of violence by *mara* members had been recorded as they sought to remove or attack individuals seeking shelter in such facilities. As a result, few if any safe options were available to her other than to find options for safe relocation with relatives in other parts of the country. The gang networks throughout the country mean that relocation can rarely guarantee safety.

39. The incidence of domestic violence in Honduras is extremely high, and the number of cases of sexual abuse, rape and violence, both against women in areas controlled by gangs and against those who decide to leave along migration routes, is alarming. Representatives of women's groups in Tegucigalpa and San Pedro Sula described numerous cases of killings or women experiencing violence or threats and having to flee, often with their entire families. While "precautionary measures" can be put in place, one interviewee described them as "a target placed on our heads".

40. The Special Rapporteur was informed of a schoolgirl who was bullied by two girls who were expelled from the school. The expelled girls had boyfriends who were gang members. The girl was subsequently raped and told she and her family must leave. The whole family left to try to travel to the United States. The extent of the control over women by gangs was emphasized by numerous people, who stated that in some neighbourhoods gangs had ordered women not to dye their hair blonde or to wear certain clothes associated with women members of a rival gang. All had conformed to the orders due to fear.

41. Research has identified the particular threat even to very young girls, aged between 12 and 15, in gang-controlled areas, whose parents are ordered to give them over as girlfriends for some of the gang leaders, leading them to decide to move to different communities, or even cities, to prevent those threats from being carried out.[19] Girls who join gangs may face extreme violence, including gang rape and beatings. If they try to leave the gangs, they may be killed or face threats that their family members will be killed. The children of gang members face a life in the gangs that it is almost impossible for them to leave without fleeing the country.

[19] Programa Nacional de Prevención, Rehabilitación y Reinserción Social, *Situación de Maras y Pandillas en Honduras*, p. 62.

42. Victims of gender-based violence can file complaints with the police, the National Human Rights Commission, the Office of the Public Prosecutor or the Municipal Offices for Women. However, even when the perpetrators are well known, few will denounce them to the police for fear of reprisal. Some stated that the deployment of military police in communities created an even greater threat to women, as there were allegations of the involvement of such police in sexual abuse. One case of rape was reportedly brought against a member of the military police. However, any cases against military personnel are heard by military courts, so there is no confidence when it comes to bringing a complaint.

43. The National Women's Institute is the central body responsible for the implementation of policy on women's rights and gender. Representatives informed the Special Rapporteur that to date their women's protection focus had been on migrants and victims of domestic violence, and that numerous initiatives existed in those areas. While consultations with women's groups were reportedly held in different localities and policy developments were under way, there were few protection measures in place specifically to address women affected by gang violence. Indeed, women connected to the *maras* were perceived as a potential risk to security in shelters for victims of domestic violence, and some centres had witnessed attacks in the past.

44. Nevertheless, some initiatives are in place to address the challenges facing women and attempt to create safer environments. A "safe cities" programme, supported by UN-Women and implemented with national partners, is aimed at replicating successful projects in Guatemala and El Salvador. The projects involve implementing practical measures to increase women's safety in urban spaces and prevent violence against them. The measures include raising public awareness, promoting women's active citizenship, training local women to serve as programme advocates, mapping unsafe spaces, and advocating with local police and officials to raise their awareness of issue of gender-based violence and include a gender perspective in municipal plans and procedures.

45. In the context of the "safe cities" initiative, UN-Women supported the development of the citizen safety agenda for women in Honduras. This tool was used to influence local government in Tegucigalpa to build a local plan on citizen security, taking into consideration women's rights. UN-Women and UNDP supported the National Institute for Women in developing an information system to register cases of violence against women and girls. Municipal Offices for Women have developed operation manuals with an emphasis on addressing violence against women and girls. In 2014, UN-Women provided technical support to the National Institute for Women to publish the national plan to end violence against women.

46. The Special Rapporteur met representatives of the lesbian, gay, bisexual and transgender community, who face particularly threats and violence due to their sexuality, which makes them frequent targets of hate crimes. Civil society groups reported 216 deaths of members of that community as a result of hate crimes since 2004, with fewer than one in five cases (19.9 per cent) resulting in prosecution. One representative highlighted that the community feared violence both from gangs and from the police. She stated that "for them to present a complaint can be a death sentence". Consequently, while accurate figures are unavailable, members of the lesbian, gay, bisexual and transgender community are particularly vulnerable to displacement. Once displaced, they remain at heightened risk, extremely vulnerable to abuse and violence, and require dedicated protection measures.

VI. Legal, policy and institutional framework for the protection of internally displaced persons

47. Honduras currently lacks a law or policy on internal displacement. Such a law is essential to fully addressing its causes and related challenges, establishing the rights of internally displaced persons in national law, identifying responsibilities and governance structures and putting national budgets in place. It was noted by the Inter-Institutional Commission for the Protection of Persons Displaced by Violence that steps were being considered with regard to developing such frameworks and including forced displacement as a crime in a new criminal code; however, dedicated legal and policy frameworks would help to guide national responses and engage all relevant institutions in a comprehensive plan of action to combat internal displacement.

48. The Special Rapporteur emphasized that progress should be made quickly to establish a law on internal displacement and to address the situation of internally displaced persons, which would provide concrete assistance and protection measures. He welcomed an undertaking by the Government at the conclusion of his visit that it would begin drafting a law during 2016 and that it would seek the assistance of the Special Rapporteur and other international partners.

49. The Inter-Institutional Commission for the Protection of Persons Displaced by Violence was established in late 2013 through Executive Decree PCM-053-2013, comprising several government agencies and civil society organizations.[20] Its main objectives are to "promote the creation of policies and the adoption of measures to prevent forced displacement because of violence, as well as to care for, protect and find solutions for displaced persons and their families". One of its main responsibilities is to "promote research into the trends, causes and actors leading to forced displacement because of violence and crime, the most affected areas and communities, its victims and the social, economic, legal and political consequences that they create".

50. The Special Rapporteur welcomes the creation of this dedicated commission, with the Ministry of Human Rights, Justice, Governance and Decentralization as the lead Government body, as a positive practice in developing institutional structures and necessary coordinated ministerial attention to internal displacement. However, he notes that it remains largely a policy, research and advisory body with no operational functions to date. As such, it is not equipped to fulfil the need for additional measures to protect and care for internally displaced persons. The role of non-governmental actors, including national and international NGOs and humanitarian organizations, must be acknowledged. To date, the Government remains heavily reliant on such organizations as implementation and operational partners.

51. To deal with the phenomenon of gangs and gang violence, in 2001 the Prevention, Rehabilitation and Social Reintegration Act was adopted by Legislative Decree No. 141-2001 of 2 October 2001, with a view to preventing the causes that lead individuals to join gangs and to rehabilitating and reintegrating them into society. The Act also created the National Prevention, Rehabilitation and Social Reintegration Programme as the Government entity responsible for this issue. Amendments to the Criminal Code (article 332 of the Criminal Code on unlawful associations) were adopted in 2003 to criminalize illicit association, as part of a zero-tolerance, "iron-fist" (*mano dura*) approach, effectively criminalizing gang membership. Some have criticized this approach for criminalizing the

[20] Inter-Institutional Commission for the Protection of Persons Displaced by Violence, "Characterization of internal displacement in Honduras" (2015). Available from www.jips.org/system/cms/attachments/1050/original_Profiling_ACNUR_ENG.pdf.

actions of some vulnerable persons, including women, who are coerced or forced into gang membership.

52. The Government has taken further steps under President Juan Orlando Hernández Alvarado, who took office in January 2014. In July 2015, the parliament of Honduras approved reforms to the penal code, introducing harsher penalties for members of the *maras*, increasing the maximum prison terms for gang leaders (from 30 to 50 years) and for lower-level members (from 20 to 30 years).[21] Congress adopted a decree in 2014 as a part of the anti-bullying law and efforts to eradicate all forms of violence in schools, which was aimed at penalizing the distribution of arms to children and the recruitment of children by gangs.

53. The National Inter-Agency Task Force was created in 2014. Its objective is to promote and ensure coordination across relevant government bodies and institutions, including the Honduran military, national police, investigators, judges and intelligence and other relevant government offices, in a "whole-of-government" approach to organized crime and insecurity in the country.[22] In addition, a number of specialist elite police units have been created, including the *Tigres*, intelligence and special security response units.

54. The Military Police of Public Order, composed of some 3,000 specially trained military personnel, was created in August 2013 with a mandate to combat the activities of street gangs and organized crime and regain control of gang neighbourhoods. Members receive specialist training, and some receive additional training in specialties such as crime scene investigation and human rights. They are also reportedly monitored and evaluated on a regular basis. Strongly supported by the President, the continuation of the mandate and deployment of the Military Police of Public Order as part of a strategy of zero tolerance of gang crime is controversial and may rely on a referendum.

55. Community members highlighted that their trust in the police had broken down completely. This is a matter that requires urgent attention. Victims do not bring cases to the police because they believe that there will be no proper investigation or that no action will be taken, and due to their legitimate fears that gangs or other criminals have connections to the police and that reporting crimes against them may put their safety or lives at risk. Some noted that a hardline approach to security had simply changed the tactics of gangs, strengthened their networks regionally and, in some cases, led to an even more violent response by the gangs.

56. The Special Rapporteur met with the Minister of Security and Director of the National Police, who informed him of programmes under way to reform and strengthen the police in terms of numbers, training and capacity, including through new investigation and community policing units and strategies that were "above suspicion". The new developments would include the hiring and specialist training of hundreds of criminal investigation police and the creation of 20 mobile laboratories for field investigations. In addition, two criminal labs would be established, in Tegucigalpa and San Pedro Sula, to significantly enhance the investigative capacity of the police.

57. The Special Rapporteur was informed that a philosophy of "service" was aimed at rebuilding trust in the police. Measures to be introduced included community policing (from January 2016), in which 2,000 specially trained police would develop strong links with communities through regular patrols and the permanent presence of police in "conflict

[21] Dhont, "Tougher sentences in Honduras unlikely to reduce gang activity".

[22] Evan Ellis, "Innovation in the fight against gangs and narcotrafficking", *Latin America Goes Global*, 24 September 2015. Available from http://latinamericagoesglobal.org/2015/09/honduras-innovation-in-the-fight-against-gangs-and-narcotrafficking.

areas". The police numbers would rise from 12,500 to 27,000 by 2017. Proposed reforms to the law on the national police and police recruitment and careers were aimed at better regulating career development, training, salaries and conditions to reduce police involvement in crime. There reportedly had been a 56 per cent increase in police budgets in 2015 to professionalize and strengthen the service. The Special Rapporteur welcomed such positive steps, while noting that they must be implemented in close consultation with traumatized communities.

58. Numerous stakeholders emphasized that communities did not want greater militarization of their neighbourhoods, as they frequently perceived the police, as well as the military police, as an additional threat rather than as a creator of conditions of security. The Special Rapporteur was informed of cases of murder, intimidation, sexual abuse and extortion carried out by security forces whose job it was to protect the public. He was informed by the authorities that the use of military police and the militarization of society were emergency measures that utilized resources available at the time and would be phased out as police reforms were made, reducing the military presence on the streets.

59. Addressing the wider gang culture that exists in Honduras and the reasons why young people enter gangs is essential in the short, medium and long term. The Special Rapporteur was informed of initiatives to undermine the influence of the *maras*. The Guardians of Honour programme for 50,000 boys and girls in communities affected by violence is aimed at preventing recruitment, in collaboration with community leaders. The National Prevention, Rehabilitation and Social Reintegration Programme carries out the "Starting Over" (*Borrón y Vida Nueva*) project, helping children, adolescents and young people to leave the *maras* through initiatives that include education, training and removal of gang identification tattoos.

VII. Progress towards achieving durable solutions

60. Establishing a strategy to achieve durable solutions for internally displaced persons is essential and should be a key objective, recognizing that the displaced—whether they return to their homes, settle elsewhere in the country or try to integrate locally—usually face continuing problems, requiring support until they achieve a durable solution to their displacement. According to the Inter-Agency Standing Committee Framework on Durable Solutions for Internally Displaced Persons,[23] a durable solution is achieved only when internally displaced persons no longer have any specific assistance and protection needs linked to their displacement and can enjoy their human rights without discrimination on account of their displacement.

61. Research conducted for the "Characterization of internal displacement in Honduras" report indicated that only 3 per cent of households identified "returning to previous place of residence" as their preferred option of future residence. This is different from many internal displacement scenarios in which return is the desired objective for many, and demonstrates clearly the chilling impact of the gangs and generalized violence on prospects for return, as well as perceptions that the problems preventing return are unlikely to be resolved within the foreseeable future. In situations of displacement caused by violence, such durable solutions require assurances of protection from violence or the removal of the threat of violence.

[23] The Brookings Institution – University of Bern Project on Internal Displacement, "IASC Framework on Durable Solutions for Internally Displaced Persons" (Washington D.C., 2010). Available from www.unhcr.org/50f94cd49.pdf.

62. The Special Rapporteur was pleased to learn of some initiatives to address the root causes of violence that relate to persistent poverty, lack of employment opportunities and social and economic stagnation. Such initiatives include a national poverty reduction strategy. While recognizing that these measures will prove effective only in the medium to long term, he believes that they are nevertheless vital to creating the economic and social stability and conditions necessary to reduce the influence of the gangs and provide alternative options for young people who may otherwise join them.

63. Measures in the area of social policy and development, including measures to provide employment and livelihood opportunities and to tackle high poverty rates, are also essential, both immediately and in the medium and long term. Ending violence and eliminating the pervasive presence and impact of gangs require holistic solutions that take into account the complexity of the challenge and its requirement for multifaceted responses. Such solutions should take into account, among other things, how recruitment into gangs is undermined when young people have alternative and better options available to them.

VIII. Internal displacement as a precursor to migration

64. With few safe options for resettlement in Honduras and a lack of any protection, support and assistance nationally, many internally displaced persons make the decision to leave the country. Internal displacement has become a precursor to migration along well established migrant routes through neighbouring countries, with the United States often the ultimate objective. Many use "coyotes", or people smugglers, who for around $7,000 assist people in evading immigration authorities.

65. The label "economic migrant" is too often and too quickly applied and yet does not take into account the unique circumstances of threat, fear and lack of options facing internally displaced persons who decide to leave Honduras. While it is acknowledged that many people turn to migrant routes for economic and other reasons, including family reunion, it must also be recognized that many are victims of the culture of violence and fear in Honduras, with legitimate protection issues. A distinction must be recognized for those whose movement is based on a well-founded fear of violence against them that leads them to flee their homes.

66. In 2014, nearly 70,000 minors, most from the Northern Triangle of Guatemala, Honduras and El Salvador, were apprehended at the United States-Mexico border in what was widely called a child migrant crisis. As unaccompanied minors, they face different regulations and procedures by the Customs and Border Protection agency, and would potentially be allowed to stay in the United States; consequently, they are frequently sent alone. The minors are held in shelters while a search is conducted for family, a sponsor or a foster parent. Many apply for asylum or special protective status.[24]

67. Inevitably, the majority who try to reach the United States are detained and deported. Between 2010 and 2014, there were 301,000 Hondurans deported from Mexico and the United States. In 2015, 65,000 Hondurans were deported, over 5,000 of whom were minors. Many who return have exhausted their resources and face a precarious future, since they fear returning to their former neighbourhoods and lack the resources needed to settle elsewhere in Honduras. This contributes to a cycle of poverty and migration that becomes increasingly more desperate and dangerous as resources and options dwindle. It may lead

[24] Associated Press, "Obama calls child migrants an 'urgent humanitarian issue'", 2 June 2014. Available from http://america.aljazeera.com/articles/2014/6/2/obama-child-immigrantsalone.html.

women into prostitution, trafficking or other forms of exploitation, while there are many protection concerns with regard to the movement of unaccompanied minors.

68. The numbers of returnees are such that reception centres have been established to provide basic processing and assessment. The Special Rapporteur visited centres for returned migrants, including the Omoa and El Edén centres near San Pedro Sula. Staff informed him of their work to assist those newly returned to Honduras. The centres are geared towards basic processing of returnees and incorporate brief medical and welfare checks and provision of basic foodstuffs, non-food items and short-term assistance. A large proportion of those who pass through are people affected by violence, in some cases unaccompanied adolescents and children. The services are commendable and demonstrate collaboration between Government ministries, civil society and United Nations agencies.

69. Nevertheless, the centres are insufficient to adequately identify persons displaced by violence or who have immediate and ongoing protection concerns. Even when protection concerns are identified, there are few if any assistance measures available, either within the reception centres or elsewhere. Consequently, those with serious protection needs remain largely unsupported and on their own. Staff noted their frustration at seeing potentially vulnerable persons, including single young women, but lacking the capacity or options to refer them to a wider support framework. Some noted that known gang members or their associates would be identified on buses or around the reception centres.

70. The Special Rapporteur urged the Government to take concrete steps to address this protection gap, including, for example, the provision of secure temporary shelter for internally displaced women and girls at risk of violence. Currently, there are few such essential support facilities in place in the country. Where people feel that they are unable to return to their places of origin due to fear of violence or other factors, it is necessary for the Government to develop more comprehensive options for local integration or relocation and resettlement in other parts of the country as part of a strategy of durable solutions for internally displaced persons.

71. The threat to some of those forced to return is real. Media reports have detailed evidence of cases in which those deported from the United States or Mexico to Honduras have been killed by gangs within days or weeks of their return.[25] While recognizing that each year many people are granted asylum in the United States and other receiving countries, research conducted in 2014, and based on media reports, identified some 35 Hondurans who had been killed soon after returning to the country. United States officials confirmed that criminal activity in their home countries was not considered grounds for individuals to claim asylum.[26]

72. In recognition of the problem, in January 2016 the United States Government announced an expanded refugee admissions programme for Central Americans fleeing violence.[27] Nevertheless, human rights groups cautioned that the programme would accept only a limited number of people and warned that a process of "expedited removals"

[25] Sibylla Brodzinsky and Ed Pilkington, "US government deporting Central American migrants to their deaths", *The Guardian*, 12 October 2015. Available from www.theguardian.com/us-news/2015/oct/12/obama-immigration-deportations-central-america.

[26] To establish eligibility, a person must prove that he or she is either the victim of past persecution or has a well-founded fear of future persecution. In the case of past persecution, a person must prove that he or she was persecuted on the grounds of race, religion, nationality, political opinion or membership in a particular social group.

[27] Julia Edwards and Arshad Mohammed, "U.S. to expand refugee program for Central Americans fleeing violence", 13 January 2016. Available from www.reuters.com/article/us-usa-refugees-centam-idUSKCN0UR29520160113.

continued to be in place for those from Honduras and other Central American countries that ignored legitimate safety concerns expressed by some of those detained.[28] As detailed in a Human Rights Watch report, a "cursory screening is failing to effectively identify people fleeing serious risks to their lives and safety".[29]

IX. Regional and international challenges and responses

73. Internal displacement in Honduras must also be understood in the context of wider challenges facing the region, including the narcotics trade and the migrant and people trafficking routes between Central and North America. Consequently, solutions must also involve regional and international partners working together to prevent and address criminality and promote economic and social stability and development. The Special Rapporteur was encouraged to learn of regional initiatives by Northern Triangle States and migrant receiving countries to cooperate to combat crime, including gang-related crime and people trafficking, and to promote economic and social development.

74. Government representatives frequently referred to a regional initiative, the Alliance for the Prosperity of the Northern Triangle,[30] under which Northern Triangle countries agreed a set of guidelines and a plan to promote prosperity and create development conditions that will allow people to remain in their countries. The strategic actions of the Plan are aimed at (a) stimulating the productive sector to create economic opportunities; (b) developing opportunities for the people; (c) improving public safety and enhancing access to the legal system; and (d) strengthening institutions to increase people's trust in the State. The plan constitutes a macro-level economic initiative involving cooperation across the three countries concerned. The Brazil Plan of Action (December 2014), in its chapter 4, also acknowledges the regional dimension of displacement by organized crime, recognizing the need for action to prevent displacement and promote durable solutions.[31]

75. United Nations agencies are a key humanitarian partner of the Government in its response to the internal displacement situation. UNHCR has signed an agreement with the Government of Honduras and the Central American Integration System, made up of the seven countries of the region plus the Dominican Republic, to improve protection and assistance for people displaced by criminal violence.[32] The Central American Security Strategy, of which Honduras is a partner, coordinates initiatives that are aimed at combating criminality in the region. It promotes sustainable human development through investment and activities related to its components, crime reduction, violence prevention, rehabilitation, reintegration and institutional strengthening.[33]

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[28] Human Rights Watch, *"You Don't Have Rights Here": US Border Screening and Returns of Central Americans to Risk of Serious Harm* (2014). Available from www.hrw.org/report/2014/10/16/you-dont-have-rights-here/us-border-screening-and-returns-central-americans-risk.

[29] Ibid.

[30] "Plan of the Alliance for Prosperity in the Northern Triangle: a road map" (2014). Available from http://idbdocs.iadb.org/wsdocs/getdocument.aspx?docnum=39224238.

[31] Available from www.acnur.org/t3/fileadmin/scripts/doc.php?file=t3/fileadmin/Documentos/BDL/2014/9865.

[32] See www.internal-displacement.org/americas/summary.

[33] Secretariat General of the Central American Integration System, Central American Security Strategy (2011). Available from www.europarl.europa.eu/meetdocs/2009_2014/documents/dcam/dv/ca_security_s_/ca_security_s_en.pdf.

X. Conclusions and recommendations

76. Internally displaced persons remain invisible victims of the generalized and gang-related violence in Honduran society. The picture painted by many government and non-government actors and community members reveals the extraordinary and pernicious influence of gang-related violence on whole communities, as gangs battle for territorial control and social control over the communities that they seek to dominate through violence, extortion and threats. The extent of the violence and its impact in terms of deaths and displacement have parallels with some conflict situations, yet a lack of resources and attention means that most internally displaced persons are left to fend for themselves.

77. The Government is commended for recognizing internal displacement as a grave human rights concern requiring urgent action. Few concrete measures are yet in place to assist and protect internally displaced persons, and Honduras remains in the planning phase of its responses. However, it has demonstrated political will and can become a leader in the region if it takes the necessary next steps. The establishment of the Inter-Institutional Commission for the Protection of Persons Displaced by Violence brings attention to the issues and begins the essential task of formulating law, policy and strategies to confront them. Such steps must be quickly matched by concrete action on the ground.

78. The Guiding Principles on Internal Displacement provide essential legal principles, standards and guidance to States on their treatment of internally displaced persons. The Special Rapporteur welcomes the undertaking of the Government that it will draft a national law on internal displacement, in line with the Guiding Principles, with technical assistance from his mandate and other national and international partners. Durable solutions are key to preventing internally displaced persons from leaving the country. Building on the principles contained in the Inter-Agency Standing Committee Framework on Durable Solutions for Internally Displaced Persons, such solutions require the provision of secure and viable options for return, local integration or resettlement elsewhere in the country, including housing, livelihood and protection.

79. The story behind the migration from Honduras is often only partially told. While the common presumption is one of poor economic migrants seeking a better life abroad, the reality for many is violence or the threat of violence against them or their families, which means migration is a necessity and not a choice. Many enter into an ever deteriorating orbit of migrant exploitation and increasing vulnerability as their resources and options dwindle.

80. The Special Rapporteur considers that concern over violence and gang activity demonstrated by national Governments in the region has not been translated into an explicit acknowledgment by them of internal displacement as a human rights violation, its impact on those affected and its role in the dynamics of regional migration. Consequently, internally displaced persons are not provided with the protection and support to which they are entitled and immigration and asylum policies and practices fail to live up to international standards required for those fleeing violence or persecution.

81. The Special Rapporteur makes the below recommendations to the Government and other national, regional and international actors.

82. A clearer understanding of what constitutes internal displacement due to violence and who is an internally displaced person is necessary yet currently lacking. A national protection framework, including an assessment, verification and registration

mechanism, operating on inclusive principles, should be established and necessary information made available nationally.

83. Legal, policy and institutional measures to address internal displacement must take into account all forms of displacement in Honduras, including displacement caused by violence and other factors affecting diverse communities and indigenous peoples. In this regard, the Special Rapporteur welcomes the forthcoming report of the Special Rapporteur on indigenous peoples.

84. Additional research is required to build a comprehensive picture of the internal displacement situation; identify trends, patterns and risk profiles; and understand the needs and intentions of internally displaced persons. The impact of internal displacement and the provision of support to internally displaced persons on host families should also be considered and evaluated, with assistance provided where necessary.

85. Based on a law on internal displacement, a national policy to prevent and respond to all forms of internal displacement should be formulated at the earliest opportunity, in accordance with the Guiding Principles on Internal Displacement and under the coordination of the Inter-Institutional Commission for the Protection of Persons Displaced by Violence.

86. The Commission is an important national focal point; however, its capacity should be strengthened and it should have an appropriate budget and secretariat in place to allow it to function effectively. Its mandate should be enhanced or an additional dedicated body should be created, with operational functions and necessary powers and resources, responsible for implementation of legal and policy provisions relating to internally displaced persons.

87. The Government must become operational as well as policymaking and ensure that sufficient resources are devoted to project and programme implementation. To date, there has been an overreliance on civil society organizations as implementing partners. The essential work of national and international organizations should be better supplemented and supported.

88. Appropriate budget lines should be created in order to implement policy measures and responses to the fullest extent possible. While the national Government should take the main responsibility for funding, it must cooperate closely with regional and municipal counterparts and ensure that funding and support are made available to them for municipal activities.

89. Locating and providing information to internally displaced persons can be challenging, since they are dispersed throughout the country, outside of any formal collective facilities, travel along migrant routes and frequently seek anonymity due to the threats that they may face.

90. A national information campaign should be conducted to offer guidance, basic legal principles and information relating to services available. In order for them to claim their rights, internally displaced persons must be aware that they are victims of violations of their human rights and of their entitlements under national and international law and standards. Including forced displacement as a crime in the criminal code will be an important step in this regard.

91. Helplines should be established as a first means of interaction between internally displaced persons and national or local authorities. Regional assessment and registration offices should also be established in major urban areas where research has identified large numbers of internally displaced persons.

92. Establishing a comprehensive strategy to achieve durable solutions for internally displaced persons should be a high priority of the Government and its development partners. The aims of such a strategy must go beyond the provision of temporary assistance and require holistic, inter-agency approaches to housing, livelihoods, service provision and protection. Regional and international partners, internally displaced persons themselves and civil society partners working to support them should play a full role in the design, planning and implementation of such approaches.

93. Internally displaced persons abandon houses and property without making official complaints to the authorities due to fear of retribution. A confidential system should be established to register abandoned homes or property that would enable a legal process to provide redress to such persons. A strategy for durable solutions should include legal processes for the restitution of property or compensation if restitution is not possible by the competent authorities.

94. The current migrant reception centres are functioning for returnees; however, they are currently inadequate when it comes to identifying those facing serious protection concerns. In view of their vital front-line role, this capacity should be enhanced with the objective of their acting as referral bodies able to process individuals and families into a wider verification, support and protection framework where necessary.

95. The Special Rapporteur was alarmed by the influence of gangs over communities, schools and children. Urgent steps are required to improve and guarantee security for students and teachers in schools. Any measures taken will require close consultation with teachers and, where necessary, specially trained staff and security measures within or in close proximity to schools.

96. Given the environment of fear and threats, close consultation with and the participation of internally displaced persons and communities are essential in order to ensure that any measures of an individual or collective nature meet the needs of internally displaced persons or violence-affected communities without putting them at additional risk. Protective measures, including witness protection, should be closely tailored to the needs and risk profiles of such communities.

Policing and security

97. The work and accomplishments of the police and security forces, despite the grave challenges that they face, must be acknowledged and commended. Steps to build the capacity of the police, incorporate new modalities and working practices, and increase investigative capacity are welcome. Communities must feel that the police and other security personnel are there first and foremost to protect them in the face of threats, violence and intimidation—as a service, not as a force to be feared.

98. Where trust has been eroded, rebuilding community confidence in the police and the judicial system is critical and requires a thoroughgoing review of policing practices and structures. Where crimes have been committed by serving officers, dismissals and prosecutions are essential to rebuilding trust and must be conducted by civilian courts rather than military courts or police tribunals.

99. The police must take all steps necessary to create a culture of service, integrity and professionalism based upon human rights standards and national law. Community-policing methodologies have proved effective elsewhere and should be utilized while ensuring sensitivity and full consultation with traumatized communities. Female police officers should be deployed as part of wider initiatives to prevent and address violence against women.

100. Failure to investigate and prosecute crimes has led to a culture of impunity, corrupt practice and fear, resulting in a breakdown of trust in the judicial system. This must be reversed through root-and-branch review and, where necessary, the reform of justice institutions that have failed to meet their responsibilities or lost the trust of those they serve.

Protection of women and girls

101. Dedicated, secure shelters and viable protection measures should be established for women and girls who have been internally displaced as a result of violence, threats or harassment by gangs or as a result of other criminal activity. Recognizing the particular risk posed to women and girls by gangs, these should be secure, policed facilities supported by specially trained female staff, and provide short and medium-term accommodation, as required.

102. National institutions for the protection of women should be strengthened and their budgets and capacity increased to enable them to go beyond policy development and to become operational, as well as to provide support to the excellent network of civil society partners working for the human rights and protection of women and girls.

103. Members of the lesbian, gay, bisexual and transgender community are targeted and experience disproportionate levels of threat and violence, in addition to widespread stigmatization and discrimination in society. As a first step, the Government should enhance its engagement with that community via those organizations working closely with its members and seek to create a viable protection process that recognizes the heightened risk facing some individuals.

Role of countries in the region and the international community

104. The regional dimensions of the problem of violence and internal displacement must be acknowledged, and appropriate international support should be provided to assist the Government of Honduras. It is struggling to cope with the impact of problems that have their root causes in factors that include the international drug trade, regional criminal and trafficking networks, and the legal and policy measures of other States in the region and migrant-receiving States such as the United States.

105. The principle of non-refoulement, the right not to be returned to a place where one would likely face threats to life, freedom or other serious harm, must be adhered to. It remains the case that being a victim of generalized crime in Honduras is not considered by the United States or other countries in the region to meet the criteria of "persecution" required for the granting of refugee status.

106. Immigration policies that fast-track Honduran and other Central American migrants for deportation should be reviewed to ensure that migrants have an adequate opportunity to claim asylum and receive adequate screening to assess their claims.

107. International partners are urged to remain closely engaged with Honduras, as well as the wider Northern Triangle region countries and migrant-receiving countries. The United Nations and the wider international community have an important role to play in preventing and responding to internal displacement as a human rights violation, including by providing technical assistance, funding and resources.

Report of the Special Rapporteur on the human rights of internally displaced persons on his mission to the Philippines: comments by the State*

RESPONSES OF THE GOVERNMENT OF THE PHILIPPINES TO THE REPORT OF THE UNITED NATIONS SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS OF INTERNALLY DISPLACED PERSONS CHALOKA BEYANI ON HIS VISIT TO THE PHILIPPINES ON 21-31 JULY 2015

I. Introduction

In 2015, the Philippine Government sent its invitation to the UN Special Rapporteur on the rights of internally displaced persons (IDP) Prof. Chaloka Beyani to conduct a country visit to the Philippines on 21-31 July 2015. An inter-agency body, led by the Department of Social Welfare and Development (DSWD) in coordination with the Department of Foreign Affairs, Presidential Human Rights Committee, National Disaster Risk Reduction and Management Council-Office of Civil Defense, Armed Forces of the Philippines, Department of Interior and Local Government, Philippine National Police, Department of Public Works and Highways, Department of Transportation and Communications, National Housing Authority, Department of Education and Department of Health, organized the preparations and actual visit of Special Rapporteur Beyani.

Prior to the official visit and in accordance to the Code of Conduct and Working Methods of the Special Procedures, the Philippine Government and the UNSR mutually agreed to an official program itinerary. It was unfortunate, however, that the guidelines on Field Visits (Article 11) were violated when, at the last minute, the UNSR decided not to follow the mutually-agreed itinerary without informing the Philippine Government. The Philippines is of the view that the action was unilaterally and arbitrarily decided and did not conform to the aforementioned Code of Conduct and Working Methods.

The UNSR and his team put the State Party at risk during his continued attempts to evade the presence of Philippine government officials assigned to accompany him during the visit. The State Party views its responsibility of securing the safety of the UNSR paramount while in Philippine territory, especially when visiting areas that has or continue to experience armed conflict.

Furthermore, the Philippine Government has noted the UNSR's use of unverified accounts in his report without giving due process to the State Party to verify his statements, even in his exit conference with officials of the State Party. Despite the State Party's attempts to provide him with context during the exit conference, the UNSR chose to rely on accounts provided by third party sources. This naming and shaming strategy is hardly befitting the trademark of a rapporteur who had committed to constructively engage with the State Party at the onset of his visit.

Despite these state of events, the Philippine Government recognizes the technical expertise and insights provided by the UNSR and looks forward to engaging with the

* Reproduced as received.

rapporteur to further improve the conditions of internally displaced persons in the Philippines.

II. The context of displacement in the Philippines

The accompanying risks of being situated in a geological and atmospheric disaster-prone area in the region are of paramount concern to the Philippines. As a result of the Philippine Government's efforts, the Asian Development Bank (ADB) and the World Bank (WB) both recognized the reconstruction of the affected communities devastated by Typhoon Haiyan. ADB and WB favorably compared the speed and quality of the Philippines' efforts with the Aceh Tsunami and Typhoon Katrina rehabilitation programs.

(Para 4) Aside from hydro and meteorological disasters, the Philippines has been dealing with armed conflict for the past 40 years, including a Muslim secessionist movement and a communist insurgency affecting various provinces in the country. Further adding to the effects of armed conflict in southern Philippines is Rido, a Maranao term used to refer to feuds between clans and families and is characterized by sporadic outbursts of retaliatory violence between families and communities, resulting in damage to property, slow growth in the economy and displacement of families.

(Para 5)The Philippines acknowledges the figures cited by the Internal Displacement Monitoring Centre. However, domestic mechanisms established by agencies responsible for disaster risk reduction and welfare identify internally displaced persons (IDP) asindividuals or groupsthat have involuntarily moved from their places of origin for protracted periods as a result of war and armed conflict caused by secessionism, insurgency or terrorism, generalized situations of violence and natural disasters to a safer ground. Groups displaced for a short period of time are called "affected populations" to help the Government identify and adapt to different needs.

(Para 6) The National and Local Government are cognizant of displaced persons living with sponsor families, especially traditional indigenous peoples who choose not to avail of evacuation center services. To address this situation, designated on-the-ground groups from local government units gather data on affected populations living outside evacuation centers. As soon as evacuation sites are closed, the Philippine Government begins implementing its "early recovery" efforts.Early recovery initiatives include: Continuing Relief Assistance, Food for Work/Cash for Work Projects (AO No. 15, series of 2008), Emergency Shelter Assistance (ESA), transitional shelters and restoration of damaged facilities. The Philippine Government undertakes response interventions in accordance with the situation on the ground and the protection requirements of disaster workers and IDPs.

At the onset of disasters, DSWD identifies and assesses the needs of families in affected areas whether they be living inside or outside evacuation centres, and provides services using the Disaster Assistance and Family Access Cards (DAFAC). Each DAFAC also shows a record of services provided by different agencies.

Families in transitional sites are provided with "continuing relief assistance' while they wait for permanent relocation.

(Para 7) Using the country's experiences with different disasters, the Philippine government was able to enhance the data collection of affected families through the use of DAFAC and the National Household Targeting System for Poverty Reduction (NHTS-PR). The NHTS-PR is an information management system that identifies who and where the poor are in the country and makes available to national government agencies and other social protection stakeholders a database of poor households, especially during disasters.

While there is a challenge to track displacement patterns caused by protracted displacement, there are existing mechanisms utilized by local government units whichserve as standard operating procedures in times of conflict and resulting displacement.

In the Autonomous Region of Muslim Mindanao (ARMM), affected families are supported through the ARMM Humanitarian Emergency Action and Response Team (ARMM-HEART) program. The Philippines also actively engages with non-governmental organizations (NGOs) to provide early recovery efforts.

(Para 8) Assistance provided to families affected by disasters, whether inside or outside evacuation centers, fall primarily under the purview of Local Government Units. IDPs are provided with basic humanitarian needs compliant with established standards such as, but not limited to, food.] The national government's Response Cluster augments the services provided by LGUs,through the DSWD's DAFAC and house rental assistance for families who do not prefer to stay in bunkhouses.

Traditionally, the country's indigenous peoples (IPSs) affected by disasters do not go to evacuation centers. To address this, the IPs started organizing independent IP Emergency Committee, composed of IP leaders and communitymembers in line with customary laws. As mandated by RA 8371 also known as the Indigenous Peoples Rights Act (IPRA) of 1997, all barangay council and municipal council should have an IP Mandatory Representative (IPMR) who will serve as the national government's bridge on the ground with the IP communities.

The NDRRMC and the National Commission on Muslim Filipinos (NCMF) recently signed a Memorandum of Agreement to deliver services catering to the needs of Muslim Filipino communities in disaster risk reduction and management (DRRM) operations.

Ethnographic survey and studies are also scheduled to be conducted to ascertain the needs, requirements and practices of indigenous peoples. The results of the surveys will serve as a data-base to determine IP vulnerability to displacement and identify appropriate interventions.

Legal, institutional and policy frameworks

(Para 9) The IDP bill was one of the top ten priority bills of the 16th Congress that saw strong representations from both the executive and legislative branches. Civil society partners also collaborated with the executive branch to pass the bill. The State-party is of the view that the bill be given priority again in the next Congress.

(Para 14) Cooperation with government agencies and the international humanitarian cluster in overseeing the Philippines' disaster relief efforts through:

"Children's Emergency Relief and Protection Act" (RA 10821) – institutionalizing the provision of a comprehensive emergency program for children affected by disasters

National Disaster Risk Reduction and Management Council – NDCC Memorandum Circular 5 of 2007 –Institutionalizing the Cluster Approach in the Philippine Disaster Management System where government agencies are leads with Humanitarian Country Teams as co-leads.

National Child Protection Working Group (NPCWG)

The NPCWG was established in 2009 as a a sub-group under the protection cluster and serves as the government's main coordination group for child protection during emergencies. . The NPCWG is led by the Council on the Welfare of Children (CWC)with UNICEF as co-lead.

On June 2014, the government subsequently approved the establishment of Regional Child Protection Working Groups (RCPWG) under the Regional Committee/Sub-Committee on the Welfare of Children (RC/SCWC) to ensure that Child Protection in Emergency (CPiE) issues and concerns were addressed in the regions.

Responses to typhoon Haiyan (Yolanda)

(Para 18) Under the DRRM Law, local government units are mandated to establish Crises Committee at all stages of governance, from the villages, municipalities, cities and provinces, regions up to the national level, each under the leadership of the local chief executive.

In areas that were affected by Typhoon Haiyan, the Crisis Committees had convened prior to the landfall of the super typhoon and mobilized resources to be ready, e.g., relief goods were prepositioned while rescue and first responder teams were organized and ready. Communication links and other such provisions were also in place.

With winds exceeding 315 kms per hour coupled with storm surges, the sheer enormity and impact of Super Typhoon Haiyan, simply overwhelmed preparations, relegating the first responders themselves as victims of the disaster. All the relief goods, communications and on-site rescue equipment prepared by the city crisis committee were inadequate to meet the needs of the disaster.

This fact should be viewed as primordial and it is unfortunate that the UN Special Rapporteur's views, in the process of gathering data on the incident, appears to have been influenced by various political views.]

Moreover, rehabilitation and reconstruction efforts are also steadily moving forward. Relocation and building of houses for the victims are in various degrees of completion but are affected by some legal technicalities relative to property rights. The Philippine Government remains cognizant of the importance of ensuring that rights and due process are accorded to each individual.

(Para 19)The report measures the perception of the residents. The Philippine Government has undertaken relief and rehabilitation efforts to ease the suffering of victims through various programs.

The Department of Justice, for its part, held the 1st Inter-Agency Council Against Trafficking (IACAT) post-disaster response technical working group after the release of the first NDRRMC assessment report.By 3rd week post-Haiyan's landfall, the IDRRT Work plan was approved.Following these developments, the Secretary of Justice and IACAT Chair issued a public statement for the creation of the IDRRT and directed all established IACAT Task Forces nationwide, especially in affected areas to step up all existing anti-trafficking efforts.

Haiyan-affected areas were identified as IDRRT's priority areas: NCR, Regions 4B, 6,7,8,9. Specifically: Cebu; Maasin, Tacloban, Ormoc, Leyte; Matnog, Sorsogon; Allen, Samar; and Roxas City.IDRRT Work Program builds off of existing anti-TIP mechanisms and the activities already being implemented post Washi and Bopha typhoons and the Zamboanga City Siege. In addition, Anti-Illegal Recruitment/Anti-TIP IEC materials on RA 10361 or Domestic Workers Law specifically targeting Yolanda/Haiyan survivors were immediately developed. Furthermore, DSWD and other partners immediately produced and disseminated these information initiatives in critical areas especially in survivor or evacuation camps as well as entry and exit points of survivors.

Simultaneous to the implementation of these, coordination meetings with the Philippine Air Force and the DSWD at the Survivor Processing Center at the Villamor Airbase were immediately conducted while center personnel were oriented to detect red

flags. IACAT Member agencies' representatives also gave AIR/ATIP orientations to waiting survivors on a rotational basis.

The Philippine Government also pushed for the inclusion and representation of IACAT in the GPH-UN Humanitarian Response Protection Cluster, GVB Sub-Cluster and the National Child Protection Working Group chaired by DSWD. Conduct of family retracing and reunification was spearheaded by the DSWD.

To ease the search for employment and job placements of IDPs, skill registration and matching were conducted in some survivor camps and evacuation centers while job fairs were conducted in the NCR and in key affected areas.

As a deterrent to human trafficking crimes, law enforcement visibility was increased while increased vigilance was promoted through capacity-building and orientation of village or barangay-based officials in partnership with CSOs and international humanitarian organizations. Close coordination and monitoring of attempted trafficking cases/incidents were also undertaken and actual cases filed and progress or statuses of cases. Massive capacity-building workshops were also established in affected areas with the main goal of establishment of ATIP Helpdesks in various exit and entry points – e.g. transport terminals, sea and airports were conducted in partnership with international humanitarian organizations and NGOs. Finally, the Philippine Governmert created sub-cluster groups under the IDRRT framework – Prevention, Protection and Partnerships.

The Philippines' Anti-Trafficking Post Disaster Response Gains:

An estimated total of 25 minors were intercepted and rescuedfrom traffickers;

At least 3 post-Haiyan related cases were filed involving at least 6 adults from Leyte;

Community leaders from over 90 villages and communities were oriented and trained on TIP and illegal recruitment;

Over 300 direct service providers were trained and oriented;

Over 20,000 IEC materials were produced and distributed;

One alleged perpetrator is currently detained in Tacloban City Jail;

Children were reunited with families with aftercare support and monitoring by regional focal persons and city social workers;

Helpdesks were established in various areas;

Child-friendly spaces were established in survivor camps;

Local government resolutions aligned with anti-trafficking strategic action plans were ratified;

Over 100 partnerships were created for ATIP activities/programs.]

A. Shelter, Housing and Provision of Basic Services

(Para 21) The Philippine Government, through the DSWD, implements the following programs for families affected by Super Typhoon Haiyan:

The Cash for Building Livelihood Assets (CBLA)is a sustainable livelihood program that provides different skills trainings to survivors of Super Typhoon Haiyan. The program has assisted 482,732 beneficiaries in the amount of PhP1,483,700,818.50 or USD31,746,776.09. As of December 2015, a total of 35,367 beneficiaries were assisted

though the Livelihood Assistance Grants (LAG) with direct assistance amounting to PhP 385,747,953,78 or USD8,253,856.68

Cash-For-Work (CFW) assistance was implemented in support of Emergency Shelter Assistance (ESA) to 34,149 families from Tacloban City whose houses were totally damaged in 2013. As of January 2016, PhP 140,783,966.51 or USD 3,011,744.94 was provided to 66,785 families.

(Para 22) In Tacloban City, 479,441 families whose houses were totally damaged were given Emergency Shelter Assistance (ESA) amounting to Php 9,190,110,000.00 or US$ 196,640,967.47, as of 20 April 2016, to augment their finances in purchasing housing materials for the reconstruction of their homes.

(Para 23) DSWD Secretary Corazon Juliano-Soliman disclosed that P73 billion foreign aid was pledged to the Philippines after Super Typhoon Haiyan. Of this amount, P45 billion were categorized as cash and P28 billion as non-cash.

In reality, the Philippines only received P17 billion. The Philippine government received P1.202 billion in cash and 1.269 billion in non-cash items. The remaining P14 billion went to non-government organizations and multilateral organizations, among others. The DSWD received P1.2 billion both in local and foreign currency.

As of 14 September 2016, DSWD had already disbursed 84 percent of the donations it had received. The amount went to transitional shelter program, cash for work, ready-to-eat food items and medicines, demurrage fees, civil registry documents, supplies for children, and administrative expenses, among others.The remaining 16 percent is already allocated based on a work and financial plan to include supplementary feeding and tourism project.

(Para 24) As of 04 May 2016,a total of 329 families still remained in bunkhouses. Based on DSWD of the Temporary Shelter Assistance and Prioritization of Victims of Disaster/Internally Displaced Persons Thereto", local government units and beneficiaries assume the care and maintenance of their bunkhouses as soon as these are turned over by the national government/DSWD. LGUs are expected to provide basic necessities such as access to water and electricity, sanitation, garbage collection and disposal, law and order, provision of health services as well as education. Beneficiaries are also encouraged to organize themselves as associations to maintain the upkeep of the bunkhouses and the sites provided by the national government.

(Para 25) During the post-Haiyan rehabilitation phase, the provision of health services was transferred from the National government to Local Government Units, which deploy teams for regular periodic health monitoring programs to affected areas. Health monitoring visits maybe less frequent due to the referral and surveillance systems assumed to be in place.

As of 12 May 2016, there are 24 Bunkhouse communities (permanent and temporary added together) existing in Tacloban City.

The Suhi District Health Center is one of the 6 district health centers in Tacloban City. It is serving at least eight (8) known temporary bunkhouse communities (Cali Transitional Shelter, Yu Site, OC1, OC2, OB1, Duplex, Badato & Tagpuro) and at least four (4) known permanent communities (Villa Diana, Villa Sofia, GMA, Habitat).

The Suhi District Health Center finished "Quick Fix" repair in November 5, 2014 (Php150,000 – DOH Funds). It started to serve on a 24/7 basis in October, 2015. Currently, it is being manned by a doctor, 18 Nurses (including nurses from NDP – Nurse Deployment Prog), 5 Midwives, and 3 ambulance drivers. Aside from the public health and medical consultations, they also cater to deliveries and emergency cases. The referral

system is in place. The sanitarian and dentist comes once a week. The Disease Surveillance Team come per necessity do conduct disease investigation.

The Temporary & Permanent shelters mentioned above are provided health services along with the Barangay Visits conducted once a month. These monthly services include Pre-natal, immunization, deworming and other major health program services. The population of these shelters avail of these services in the Barangay Health Stations assigned to them. A Barangay Health Leader is assigned per shelter community to disseminate health information.

Diseases recorded in Suhi Health Center include cluster of dengue cases in which occurred in Brgy. Camasihay December, 2015 (no bunkhouse located in the area); three (3) diarrhea cases in GMA permanent shelter which occurred in Feb-March, 2016. Both events were provided public health control measures by Tacloban City Health Office and there has been no escalation of these two diseases.

(Para 26) Administrative Order No. 9 series of 2014 – "Guidelines in the Implementation of Temporary Shelter Assistance and Prioritization of Victims of Disaster/Internally Displaced Persons Thereto" was established created in order to provide assistance to legitimate beneficiaries.This provides guidelines in identifying qualified beneficiaries for transitional shelter of bunkhouses. As a procedure, the National Housing Authority (NHA) requires certifications from the barangay or village that the IDPs are legitimate beneficiaries. If the IDPs do not own the land, a certificate from the owner of the land allowing the family to construct a house for a minimum of 10 years will be issued. Those who manage to go back to their original residences will be required to secure certificates.

(Para 27) As of 20 April 2016, the Philippines, through the DSWD, hasserved 479,441 families whose houses were totally destroyed by Super Typhoon Haiyan Yolanda (219,785) and partially damaged (259,656). The Philippine Government released a total of PhP 9,190,110,000. or USD196,640,967.47 from the Emergency Shelter Assistance (ESA) in Tacloban City alone. The Philippines continues its verification process for other victims to be granted permanent housing.

The mass flight from Tacloban City after Super Typhoon Haiyan brought about the phenomenon of families relocating to neighboring provinces such as Cebu City. Some fled through planes carrying relief goods from Manila. The non-presence of these families in Tacloban City posed challenges at the time of the awarding of temporary or permanent shelter. Families from other areas in the island also showed up demanding to be included in the list of beneficiaries despite not being in the original list of residents These scenarios further contributed to the claim that there were delisting of families in the list of beneficiaries.

(Para 28) The Tide Embankment Project was not pursued.

Livelihood and Employment

(Para 32) Department of Education's regional and division offices have been vigilant in ensuring that children remain in schools. Aside from the formal education program, there are other forms of educational services that the Department of Education (DepEd) offers such as the Alternative Learning System (ALS) which provides the Abot Alam Program that caters to out-of-school youth (OSY). There are also alternative delivery modules provided to learners such as the MISOSA, E-IMPACT, etc. DepEd has also been lenient with regard to the policy on transferees enabling schools to accept learners even with incomplete/partial requirements due to the effects of typhoons.

(Para 33) The Philippines' DSWD implements the Cash for Building Livelihood Assets (CBLA)- Sustainable Livelihood Program that has provided different skills trainings to the survivors of Super Typhoon Haiyan.

B. Protection concerns

(Para 34) According to the Joint Memorandum Circular #1, series of 2013, (DILG, DEPED, DSWD, DOH) on Guidelines on Evacuation Center Coordination and Management), the security of camps and bunkhouses, once turned over by the national government to the localities, falls under the purview of the local government units.

Adequate number of properly trained female police officers (WCPD investigators) shall be deployed to provide assistance to IDPs in case of gender-based violations.

The PNP is committed to initiate the establishment of strategies in improving security in coordination with DSWD, such as, but not limited to the following:

Creation of a community watch groups preferably with trusted female and male members of the community and availability of community/women center to cater services to IDPs, promote confidence-building between police and the community like increasing numbers of female police, meetings and information sharing, information sessions about laws and protections and to have regular communication with the LGU; and

Provide guidance to IDPs on how to prevent future incidents of violence. Concerned agency to install perimeter fence in camp sites to establish ingress and egress in order to control the access of the unknown people for the safety and protection of IDPs as well as to prevent the women and girls who face threats of sexual abuse;

Further, the PNP will conduct police visibility and deployment of PCR Team in the area of IDPs. The PNP leadership has institutionalized patrolling as the backbone of policing and a systematic downloading of personnel from the national, regional and provincial offices to the police stations has been initiated.

All Police Regional Offices (PROs) were directed to create and activate Patrol Operations Section/Unit (POS/POUs) in all Police Stations nationwide. The creation of POS and POUs aims to increase police presence in communities and address existing gaps in patrol activities, such as non-responsive Police Station Organization Structure and Staffing Pattern, inappropriate rank for patrol duties, absence of specific instructions or job descriptions for patrollers, and unclear distribution of beats.

There are limitations to the conduct of spot check/search and accosting of an individual by a police officer as this action has to be undertaken in accordance with the law and in strict observance of the Police Operational Procedures. Thus, the PNP enjoins the people and camp managers in the disaster-affected communities to be vigilant and immediately report/seek police assistance should there be suspicious individuals and circumstances in their areas.

The Women and Children Protection Center proposed a budget allocation for Disaster Risk Response that includes inter-agency and international coordination to extend and seek assistance from other concerned agencies to give favorable actions to IDPs. At present, the Center is still in the process of programming and implementing advocacy programs and campaign against all forms of abuse among women, children, the elderly. And persons with disabilities (PWDs) that covers activities to conduct intensive monitoring and case reporting from disaster hit victims.

The Philippine Government provides for the following interventions to address Child Protection in Emergency (CPiE) issues and concerns, namely: Family Tracing and

Registration; Birth Registration for the separated, unaccompanied, missing and reintegrated children; and the provision of child-friendly spaces (CFS) to address psychosocial needs and access to temporary learning spaces while in transition for eventual resumption of formal school.

Child-friendly spaceswere developed by the Council on the Welfare of Children (CWC) – National Child Protection Working Group (NCPWG). As part of its advocacy and capacity building initiatives on CPIE, the CWC, with support from UNICEF, conducted CPIE Coordination training and orientation on the national implementation guidelines on CFS to members of the NCPWG at the regional and national levels.

(Para 35) The Philippines has noted an increase in the number of marriages between single couples after a disaster. This has been commonly observed between family units to ensure security and to consolidate resources, e.g., two families merged by marriage can share more resources. With regards to female heads of households, he Philippines, through the DSWD, currently employs a process of designating mothers as the head of household. Usually, if the male parent is not around during the issuance of the Disaster Access Family Card or DAFAC, the female parent will be interviewed and assume the role as head of the family and subsequently indicated in the access card. By doing so, any member of the family can easily access government and non-government social services assistance during disaster.

(Para 38) Similar to the response in Para 8. Once the evacuation site is closed, The Philippines, through DSWD, will start implementing its "early recovery" efforts that includes: Continuing relief assistance, Food for Work/Cash for Work Projects (AO No. 15, series of 2008), Emergency Shelter Assistance (ESA), transitional shelters and restoration of damaged facilities. The Philippines also undertakes response interventions in accordance with the situation on the ground and requirements of protection for disaster workers and IDPs.

At the onset of disasters, DSWD identifies and assesses the needs of families in affected areas, whether they be living inside or outside evacuation centres, and provides services using the Disaster Assistance and Family Access Cards (DAFAC). Each DAFAC shows a record of services provided by different agencies.

Families in transitional sites are provided with "continuing relief assistance' while they wait for permanent relocation.

Conflict-induced internal displacement in Mindanao

(Para 39) The Philippines prohibits the recruitment of children, and has put in place laws and regulations that will prosecute any member of the State's security forces which violate the said policy. Notable is the Department of National Defense Circular No. 1 Series of February 2016 – Child Protection during Armed Conflict Situation.

(Para 40) The Moro Islamic Liberation Front (MILF) is a break-away group of the Moro National Liberation Front (MNLF) due to differences in political goal. The Abu Sayyaf Group (ASG), on the other hand was created by former members of the MNLF. Despite the seeming similarity, it is not accurate to regard both the MILF and the ASG in the same breath due to the very nature and character of said groups.

The ASG is involved in kidnap-for-ransom activities and other criminal and terroristic acts that victimize civilians. The MILF, however, was organized based on a clear political agenda; the group has since signed a political agreement with the Philippine government, the Comprehensive Agreement on the Bangsamoro (CAB).

(Para 41) The term "standing-down" does not appear in the Annex on Normalization of the CAB. Under the said Annex, the MILF shall undertake a graduated program for

decommissioning its forces so that they are put beyond use. Decommissioning shall be a process that includes activities aimed at achieving a smooth transition of the Bangsamoro Islamic Armed Forces (BIAF), the armed forces of the MILF, to productive civilian life.

(Para 43) The Philippine government and the MILF signed an Agreement on the General Cessation of Hostilities. Also known as the Ceasefire agreement, the goal of the agreement is to check and prevent the escalation of armed hostilities between parties. Coordination and communication are key in ensuring that there is relative peace and that the ceasefire agreement is respected, especially in areas where there is MILF presence.

Mamasapano is a municipality where the MILF-BIAF (Bangsamoro Islamic Armed Forces), the armed group of the MILF lives. Other sections of Mamasapano is where BIFF (Bangsamoro Islamic Freedom Fighters) lives. The BIFF is a break-away group of the MILF. It was in the section of the community where the BIFF members resided where the operation of the PNP took place. The PNP was serving an arrest warrant against wanted foreign national Zulkifli Abdhir. The Philippines maintains that the clash did not compromise the passage of the proposed Bangsamoro Basic Law (BBL), the attempt to translate the political agreement (CAB) into a law.

The Bangsamoro Basic Law (BBL) faced numerous issues and elicited reservations during its deliberations in Congress which commenced on the 3rd and 4th quarter of 2014. The Mamasapano incident occurred in January 2015 and may have influenced the deliberations in Congress.

(Para 44)The Philippines, through the DSWD, assisted a total of 65,362 families during the period of the law enforcement operation against the BIFF for the period (DSWD to state months, e.g., As of June 2015 and released a total of PhP 534,304,687 or USD 11,420,434.73 worth of assistance to 65,362 families displaced by the Zamboanga siege from 2013-2015, broken down, as follows:

Program/Scheme	No. of Beneficiaries	Cost of Assistance (in pesos)	Cost of Assistance (in US dollars)
Balik Probinsya (Provision of transportation allowance/fuel for the bancas)	614 families	680,516.00	14,545.60
Balik Barangay (Provision of transportation allowance/food packs)	804 families	1,600,000.00	34,199.01
House Rental (Provision of house rental fee for IDPs)	648 families	7,336,840.00	156,820.41
Home Materials Assistance (HOMA) (Augmentation to NHA's housing program)	1,082 families	5,410,000.00	115,635.40
Supplementary Feeding (Children ages 2 to 5 years old)	1,287 children	2,141,798.43	45,779.61
School Feeding Program	500 students	380,315.00	8,129.00

Livelihood Skill Training	2,386 (trained on Basic Business Management Training (BBMT) 270 (trained for employment) 81 (hired in canning factory)	In coordination with the Technical Education and Skills Development Authority (TESDA)	
Livelihood Grants	2,836 IDP families/beneficiaries	27,322,000.00	583,990.81
Food Assistance	17,733 families	289,704,117.80	6,192,245.9
Non-Food Item Assistance	7,045 families	9,256,504.70	197,852.05
Cash for Work (Peace-keeping)	1,299 families	10,040,380.00	214,606.9
Food-for-Work	19,905 families	24,239,225.58	518,098.42
Financial Assistance	925 families	2,478,332.00	52,972.81
Educational Assistance	4,822 elementary, high school and college students	8,199,830.00	175,266.28
Fuel for movement of IDPs (with bancas and motorboats)	214 families	35,658.00	762.17
Salaries for the 24 Jos/Camp staff		1,452,080.00	31,037.31
Construction of Bunkhouses & Recovery Shelters	2,763 families	143,484,113.78	3,066,883.97
Provision of plastic water tanks (33 units of 600L capacity)	114 families	397,485.00	8,496.00
Assistance to Recovery Shelters a) Supplies for Camp Management (24 staff) b) Assistance to untagged IDPs at recovery shelters in Taluksangay	34 families	37,491.00 108,000.00	802.20 2,310.88
Total number of Families assisted	65,362 families	534,304,687.29	11,420,434.73

There are no displaced families in the Grandstand as all families have now been transferred to transitional shelters and or back to their original communities.

Zamboanga

(Para 45) Some rogue elements of the Moro National Liberation Front (MNLF) besieged Zamboanga City from 9-28 September 2013, affecting a total of 23,794 families. The Government sought to address the needs of affected families by relocating them to permanent housing facilities. As of 21 March 2016, a total of 1,069 families have been transferred to permanent sites while 2,726 families remain in transitional sites.

It may be noted that prevailing poverty in Zamboanga has also encouraged relatives of families affected by the siege, who were living far from the area of the siege, to also seek relief from the government, e.g., food packs, services and other donations.

(Para 46) According to data of the Philippines' DSWD, as of 21 March 2016, a total of 2,243 families remained in transitional housing sites in Masepla (1,334), Buggoc 1 & 2 (255), Taluksangay (85), Tulungatong (281), and Kasanyangan (288). or a total of 2,243 families.

(Para 48) According to the Philippines' DSWD, 17,733 families were provided food assistance amounting to PhP 289,704,117.80 or USD_6,198,804.80 while 7,045 families were provided with non-food items worth PhP 9,256,504.70 or USD 198,061.62, on top of other supp[illegible]ervices.

(Para 49) The transfer of families from the Joaquin F. Enriquez Memorial Grandstand to relocation site started as early as June 2014 through the Balik Barangay, Balik Probinsya program contrary to the UNSR's allegations that the families were transferred days prior to his visit in July 2015). Atotal number of 2,730 families have transferred from the Grandstand to relocation sites between June 2014 to July 2015.

Families who refused to move to transitional shelters but chose to return to their original locations (except for No-Build zone areas) received the following assistance:

a) Balik-Probinsya (Return to the Province) = 614 families (PhP 680,516.00 or USD 14,561.01);

b) Balik-Barangay (Return to the Barangay) = 804 families (PhP 1,600,000.00 or USD34,235.23);

c) House rental = 648 families (PhP 7,336,840.00 or USD 156,986.51) and other services of DSWD.

A total of 1,082 families availed of Home Materials assistance and food and non-food assistance amounting to Php5,410,000 or USD 115,757.88 to augmentto the NHA's program

"The UNSR's first site visit was in Zamboanga and he and his team deviated from the mutually agreed itinerary and purposely evaded Philippine government officials to visit the Grandstand by themselves, leaving the Philippine government alarmed as to his whereabouts and, more importantly, his security. The UNSR discovered families returning from the relocation sites gathering belongings left behind after their transfer.

The UNSR may wish to note that the Grandstand had become a hub for donations. Hence, families woud congregate in the area in the hope of receiving donations from private donors that still continue to arrive in the area."

(Para 50) LGU/Barangays (villages) gives a list to NHA and LGU/NHA posts information in conspicuous areas.

(Para 51) As of 21 March 2016, a total of 175 families remained in the Lupa-Lupa recovery site while 359 families are now in the Mariki Permanent Site. Para 52 (DSWD pls: claims of cramped quarters not up to par with international standards)

(Para 53) The Philippines gives its assurance that Mampang will not be a permanent relocation site. According to the NHA, they have built permanent shelter for the Mampang residents, 203 units of which have been turned over to the occupants, and 100 units of stilt houses turned over to Badjao families.

For Badjao families affected by the Zamboanga siege, 50 family heads have been transferred to the Bugoc transitory site and provided with trainings, as of April 2016. Another 43 family heads were assisted in the Tulungatong Transitory Site and enrolled in the Cash for Work program. A total of 53 children were processed and awarded with birth certificates while 123 students from the Mampang site were provided with educational assistance.

To ensure that the delivery of quality education was not hampered by the siege and to accomplish the return to normalcy of education services and operations, the Department of Education (DepEd), with the assistance of various education partners, provided a number of interventions to affected schools as well as learners and personnel located in transitory sites. Below are the rehabilitation and recovery activities and programs implemented after to the siege:

- Conducted census for all school-aged children relocated to Mampang Transitory Site (MTS) to ensure that the number of temporary learning spaces (TLS) provided would fulfill the needs in the area;
- Trained almost 5,000 personnel on Psychosocial Support Services and implemented Psychosocial Interventions to over 155,000 affected learners;
- Provided over 1,500 copies of Alternative Delivery and Alternative Learning System Modules in MTS as well as in other affected schools;
- Provided over 15,000 teaching and learning kits to personnel and learners;
- Implemented a Special Enhancement Program for the catch-up sessions of learners in MTS and affected schools;
- Conducted school feeding programs for over 6,000 learners;
- Constructed 20 TLS, one (1) kitchen, and two (2) water, sanitation, and health facilities in MTS;
- Provided over 2,800 school furniture for learners and personnel in MTS and affected schools; and,
- Assigned 19 teachers to teach in MTS, one (1) of which is an Alternative Learning System (ALS) teacher who caters to the out-of-school youth (OSY).

During the implementation of the said programs, more permanent solutions were being planned and implemented by DepEd. The detailed assessment of classroom damages was immediately implemented by DepEd to ensure that there will be enough classrooms and that classrooms are safe and conducive to learning. After the detailed assessment, 280 classrooms in 19 schools were programmed for repairs and construction, of which 84 have been completed while the remaining are currently undergoing construction.

(Para 54) A new school (Kasanyangan Integrated School) will be established in the Kasanyangan Permanent Site which will consist of 75 classrooms. DepEd is coordinating with the National Housing Authority and the local government of Zamboanga City for the timeline of relocation of families to coincide with the completion of the construction of the new school.

(Para 56) Initial efforts to delineatethe ancestral lands and waters of the Sama Banginji at Simariki Island, Zamboanga City is currently being discussed with partners of

the National Commission on Indigenous Peoples (NCIP) such as the Assisi Development Foundation & Ateneo de Zamboanga University.

The Philippines' DSWD implements the Cash for Building Livelihood Assets (CBLA)- Sustainable Livelihood Program that provides different skills trainings to IDPs.

Please see response in para 53.

(Para 58)It may be noted that prevailing poverty in Zamboanga has also encouraged relatives of families affected by the siege, who were living far from the area of the siege, to also seek relief from the government, e.g., food packs, services and other donations.

The Philippines' DSWD implements the Cash for Building Livelihood Assets (CBLA)- Sustainable Livelihood Program that provides different skills trainings to IDPs.

The NCIP began its efforts to institutionalize a Quick Response Mechanism (QRM) in 2012 to identify indigenous people who are IDPs. This mechanism is based on the principle of respect, recognition and involvement of indigenous socio-economic, leadership, peace building & conflict resolution structures or mechanisms and institutions. In early 2014, NCIP organized an IP Crisis Committee, and conducted an IP Mindanao Conference Committee especially in CARAGA Region as part of the integrated effort of the QRM.

(Para 59) The Philippine Department of Environment and Natural Resources (DENR) enforces the no build zone from the high water line. This regulation has hardly been enforced as families started rebuilding near the coastline again, citing their need to have access to their fishing livelihood.

Maguindanao

(Para 62) The Philippine Government has adopted several models to bring peace and services to the area, with the establishment of the ARMM, etc. The Philippines has made inroads and acknowledges that more needs to be done, hence, its tireless pursuit for peace in the region.

(Para 63)To reduce clashes and isolate lawless elements, e.g., kidnap-for-ransom gangs, taking refuge in or near MILF communities, the Philippines and the Moro Islamic Liberation Front (MILF) agreed to a General Cessation of Hostilities and the establishment of an Ad Hoc Joint Action Group (AHJAG)covering five conflict—affected areas in Mindanao in May 2002 to effectively facilitate the flow of communication between the conflicting parties and substantially decrease the number of armed engagements when government forces pursue lawless elements.

AHJAG covers the following areas: (1) Maguindanao, Sultan Kudarat, North Cotabato and Bukidnon; Lanao and Misamis provinces; (3) Zamboanga peninsula and ARMM island provinces; (4) South Cotabato, Sultan Kudarat, Sarangani and General Santos City; and (5) Davao provinces. Recorded clashes between the GPH and MILF from 2008 to 2014 were, as follows: 218 clashes in 2008, 115 clashes in 2009, 14 clashes in 2010, 8 clashes in 2011, 0 clashes in 2012 to 2014 and only 1 clash in 2015.

(Para 64) While the Bangsamoro Basic Law has yet to be enacted into a law, the government continues to deliver services to communities affected by conflict. The Sajahatra Bangsamoro was launched in 2014, following the signing of the Framework Agreement on the Bangsamoro (FAB). The program is meant to provide immediate social protection measures to communities jointly identified by the Philippine Government and the MILF.

The goal of the Sajahatra program is to accompany the peace negotiations and ensure that communities would enjoy "peace dividends," dissuading individuals in the process from again engaging in violent activities.

(Para 65) The Philippine Government's assistance does not end upon the closure of evacuation centers, it continues as long as there is expressed needs upon assessment by LGU and DSWD; early recovery program are provided such as Cash for Work, Cash for Building and Livelihood Assets , Pabaon Package contained family food packs, kitchen wares, ; shelter assistance either emergency shelter program, transitional shelter and permanent core shelter; supplemental feeding for children and other regular social protection programs of the DSWD are accessible to them through Crisis Intervention Unit .

Aside from pursuing peace negotiations, the Philippines has made inroads in bringing crucial services to the most marginalized of these communities through the focused development activities of the PAMANA or the Payapa at Masaganang Pamayanan Program. From 2011 to 2015, the peacebuilding program invested a total PhP 24.3 billion or USD 540 million, covering 15,635 projects in 44 provinces. Of these 44 Provinces, 27 have been recognized by 2015 as having achieved a stable and manageable security situation or a substantial reduction in armed violence, thereby fostering environments conducive to development and investment programs.

(Para 66) Under Article X, Section 21 of the 1987 Constitution, the preservation of peace and order within the Autonomous Region of Muslim Mindanao shall be the responsibility of the local police agencies and shall be organized, maintained, supervised, and utilized in accordance with applicable laws, while the defense and security of the region shall be the responsibility of the National Government.

The "AFP offensives against the BIFF and heavy militarization of the region" is thus within the power and responsibility of the national government. Likewise, it is not "militarization" as there was no attempt whatsoever to prepare the community to take part in the armed engagement.

Nevertheless, the national, regional, and local governments work together to address the needs of affected families, ensuring that both the rehabilitation and relocation, if needed, are addressed. If local funds are not available, national funds are accessed to address the needs of IDPs.

The UNSR's statements are sweeping generalizations, solely blaming the Philippines' security forces for the apparent displacement of families in the conflict-affected areas.

The Philippine Government recommends that the UNSR undertake an in-depth and extensive study of the conflict that has plagued southern Philippines since the 1970's and acknowledge the repeated efforts of the government to negotiate for peace in the region instead of merely relying on verbal accounts he received in the 10 days that he visited the Philippines. Such sweeping generalizations border on irresponsible reporting,and is uncalled for coming from a distinguished expert

The word "militarization" refers to the act of preparing the society for war or other emergencies. It does not connote the conduct of operations by the State's armed forces against organized armed groups or to suppress lawless violence committed by non-state actors. The conduct of offensives by the Armed Forces of the Philippines against the BIFF is well within the power of the State to engage in internal security operations to defend the Autonomous Region in Muslim Mindanao (ARMM) against threats and defend the local populace from atrocities committed by lawless elements.

(Para 67) The Philippines respectfully disagrees with the claim that "no assistance or compensation was provided for the destruction of homes or crops, and does not provide for

relocation, resettlement or the provision of transitional or permanent housing." The statement is tantamount to an accusation without the benefit of providing basis for such remarks. As shown in responses to previous paragraphs (see para 44 to 64), both the national and local government units have provided assistance to affected and displaced populations.

The Philippine Government has provided the UNSR, during its visit, all available opportunities to see the big picture of the IDP situation in the Philippines, both from the point of view of the State and Civil Society Organizations, believing that the process is part of a constructive engagement and dialogue to improve the process of addressing the concerns and needs of IDPs. The Philippines is of the opinion that accusations, sweeping statements, and citing information and/or data sets coming from unverified and unofficial accounts are not conducive to a constructive process, and actually create the impression that the report is meant to "shame" the State instead of helping it improve its processes.

Please also see responses in Para 45 and 46.

(Para 68) The Philippines' DSWD, as the Vice-Chair for disaster response, is in charge of the following: 1) Provision of Food/Non-Food Items in affected LGUs in cases where prepositioned resources are used during a disaster period; 2) Ensuring availability of safe, secure and accessible evacuation centers for emergencies and disasters; 3) Protection for IDPs inside and outside the evacuation centers are provided with humanitarian needs based on accepted standard.

The Philippines further expresses opposition to the statement that "civil society actors stated that civilians and IDPs are viewed with hostility by the AFP who suspect them of harboring and supporting insurgents" since no data was provided to show that a significant number of civil society actors share the same sentiment.

The complex reality of internal armed conflict is the fact that some civilians and groups cooperate with the insurgents in a transactional exchange relationship. Part of the transactional relation includes information exchange, safe havens, and even support to the propaganda narrative of armed groups.

Hence, the Philippine Government believes that the reportwould have been moreimpartial had the UN SR been more circumspect in determiningthe veracity and objectivity of the statements given by the civil society groups he interviewed. It is inaccurate to state that civilians and IDPs are viewed with hostility by the AFP who "suspects them of harboring and supporting insurgents." The AFP as a professional military organization is aware that the insurgency situation in the Philippines resulted from a myriad of social, political, economic and cultural issues. The AFP is also aware that armed groups use violent means to intimidate civilians.Regrettably, some the civilians cooperate with the insurgents in a transactional exchange relationship. Nevertheless, the AFP is bound by the rule of law and strictly observes the civil and political rights of civilians.

Moreover, no such report was presented to the AFP by civil society organizations or non-government organizations during or immediately after the Zamboanga City incident. Likewise, diligent inquiry was conducted with CSOs stationed within Zamboanga City and no group has claimed to have made such a report nor heard such occurrences as stated in the UNSR's Report.

Lastly, the AFP has strengthened the functions of its Human Rights Office (AFPHRO) which continually engages with civil society, NGOs, international organizations including the International Committee of the Red Cross (ICRC), UN resident agencies, the Commission on Human Rights and other government agencies to promote and protect human rights. The AFPHRO entered into partnerships and established various mechanisms to address and resolve complaints against military personnel. Reports of acts

of discrimination or unbecoming conduct by soldiers will be prosecuted through the military justice system and/or the criminal justice system.

(Para 69) The Quick Response Team (QRT) refers to a composite team of all categories of trained DSWD Personnel from the Central Office, Field Offices and its attached agencies and members of civil society organizations possessing specific skills and competency ready to be deployed to assist in affected areas and LGUs in delivering disaster relief and humanitarian services during massive natural or human-induced disasters.

The LISTAHANAN or the National Household Targeting System for Poverty Reduction (NHTS-PR) is one of the systems used by the Philippine DSWD as a database in gathering relevant data and is conducted per barangay, consolidated per municipality and finally, per province.

(Para 70) The Philippines is of the opinion that making a generalized claim that "Lumads are often accused by the AFP of being members or supporters of the NPA" is an open accusation and/or judgment without showing a modicum of evidence. Likewise, the term Lumad is a generic nomenclature that refersto all indigenous peoples (IP) in Mindanao from various regions. The AFP investigates and conducts thorough research before it categorizes certain Lumad communities as either influenced or threatened by the New People's Army, the armed wing of the Communist Party of the Philippines.

It is not within the policy of the AFP to publicly, indiscriminately, and unjustly label, accuse or vilify innocent individuals, groups, or organizations by associating them as members or supporters of the NPA. It must be noted that the AFP has been conducting peace and development activities, i.e., PAMANA, in the far-flung areas of the country to spur development and facilitate the delivery of basic services by the government. Called "Bayanihan Team Activities", the "Bayanihan Teams" go to the different communities to liaison with community leaders to determine the communities' primordial needs, including those in the IP communities. The AFP has long been pushing for the full implementation of the Indigenous People's Rights Act under RA 8371. Non-state armed groups, reports indicate, spread misinformation to sow intrigue between the AFP and the communities.

The Philippine Government wishes to emphasize that the AFP is a professional military organization. It is bound by human rights and international humanitarian law, the rule of law and strictly observes the civil and political rights of civilians.

The AFP is the first in Asia, if not the world, to make public its Internal Peace and Security Plan (IPSP) to give the public more leverage in checking the performance of its duties. Moreover, it is also the first in the world to have agreed to a mechanism where civil society groups exercise oversight on its performance especially in the areas of HR-IHL, rule of law, and respect for the peace process.

On the statements, "with regard to the communist insurgency, the indigenous peoples of Mindanao known as Lumads have been disproportionately affected by the long-standing conflict between the government and the New People's Army. Many live in areas where the communist insurgency and counter-insurgency by the AFP are taking place," it must be stated that the IPswere affected by the conflict when the NPA started to recruit them into their ranks.Minors were also conscripted by the group. An example is the case of an IP minor Asinad Bago, a student of Salugpungan, an alternative learning school run by non-government organization, who was exposed to lectures about the NPA's armed struggle.

Assistance to LUMAD IP communities is provided through the Modified Conditional Cash Transfer (MCCT) Program and Sustainable Livelihood Program (SLP) under the Department of Social Welfare and Development (DSWD) which caters to the needs of the IPs especially on their livelihood and economic upliftment. In fact, the first

segment of animal production such as cows, pigs and carabaos in the IP community of Brgy. Gupitan, Kapalong, Davao Del Norte.

As regards the comment on the Executive Order (EO) No. 546, the objective of said policyis to address the problems of insurgency andsecessionism at the local levels. The campaign against private armies is geared towards an integrated and holistic approach to promote a secured environment conducive to the well-being and development of the Filipino people. The Barangay Peace Keeping Action Team under the local government supports the PNP and the AFP in internal security operations through its barangay tanods, deputized as "force multipliers." The success of E.O. No. 546 in quelling both insurgent and secessionist threats to communities and innocent civilians is seen as the main reason why certain groups allied with these same insurgents and secessionist are calling for the EO's revocation.

The current Philippine administration has consistently taken a strong stand against private armies. Upon his assumption to office, President Aquino gave marching orders for the PNP and the AFP to exhaust all efforts to dismantle private armies that are widely believed to be protected by local warlords and politicians. On 4 August 2010, a Joint Letter Directive 05-2010 (AFP-PNP Joint Campaign to Dismantle Private Armies) was signed by the AFP and PNP Chiefs to prescribe policies, guidelines and procedures to be undertaken in the dismantling of private armies.

(Para 71) The Government maintains that the alleged internal displacements refer to movements of IPs organized or orchestrated by militant leftist groups, condemned by IP leaders in one of their resolutions.Twenty-three IPs from Bukidnon were lured from their ancestral domains and brought to Haran in Davao to be part of the so-called "evacuees" or "displaced persons".

The IP Crisis Committee (IPCC) in the CARAGA region is set to evaluate the co-called "Lumad Displacement". The Committee and NCIP found out that so-called evacuees are not from affected areas. Many IPs in government sport complexes in Tandag, Surigao del Sur were organized by non-IP groups with political and ideological agenda that have nothing to do with IP concerns.

The Philippines informs the UNSR that it has monitored the perceived "displacement" as a form of "movement of IPs due to enticements of food or meeting personalities such as the President or Manny Pacquaio."

(Para 72) Updates on the two (2) harassment incidents that transpired in Brgy. Bolhoon and Brgy. Siargao, both of San Miguel, Surigao del Sur:

In Brgy. Bolhoon

An Alias Order of Arrest was issued against the respondents, Arab Tejero alias Bobby Tejero, Dating Brital, Bogoy Martines, Lordan Banusan, Tanog Peres, Garito Cabuga and 13 John Does, accused for:

Three (3) counts of robbery under Criminal Case No. 6720-6722 and kidnapping under Criminal Case No. 6723 dated 22 December 2015 signed by Hon. Rufo U. Naragas, Presiding Judge 11th Judicial Region, Branch 40, Tandag City, Surigao del Sur; and

Four (4) counts of grave threat under Criminal Case No. 6968-6971 and three (3) counts of grave coercion under Criminal Case No. 6972-6974 dated 06 January 2016 signed Hon. Ricardo L. Mosquera III, Acting Presiding Judge, 3rd MCTC, San Miguel-Tago, Surigao del Sur.

In Brgy. Siagao

On 29 August 2015, Brgy. Captain Julieto Pie of Brgy. Siagao, San Miguel Surigao del Sur called the San Migue! Police Station throughthe PNP hotline informing that two (2) dead bodies identified as Crisanto Tabugol y Silvoza, 30 yrs. old, and Ely "Loloy" Tabugol, 34 years old, both farmers and residents of Purok-3, Brgy. Siagao, San Miguel Surigao del Sur were shot to death by more or less ten (10) unidentified armed men believed to be members of BAGANI Forces under Datu Jasmin Acevedo based somewhere in Brgy. Umalag, San Miguel Surigao del Sur armed with M16, Carbine and M203 rifles.

(Para 73) Cases were already filed in court against the suspects, namely: Bobby Novero Tejero, Margarito Tejero Layno/Garito Layno and Loloy Novero Tejero. Subsequently, a warrant of arrest (WOA) has been issued for their immediate arrest. The PNP and AFP created a Joint Task Force "Bangkaw" to track down and arrest the suspects. Furthermore, on 23 November 2015, the suspects involved in the said killings were included in the List of Wanted Persons with a monetary reward of One Million Two Hundred Pesos (PhP 1,200,000.00 or USD 25,614.00) each under DILG Memorandum Circular Number 2015-136.

At present, the PNP and AFP are continuously exerting efforts to arrest the suspects in the ALCADEV incident. The AFP-PNP tracker teams are still posted in strategic areas while joint combat/law Forces Battalions, are ongoing in the areas of Agusan del Sur and Surigao del Sur.

Of the three rape incidents in Talaingod, Davao del Norte,the case filed before the Office of Provincial Prosecutor, Tagum City, Davao del Norte against the respondents was dismissed for insufficiency of evidence. The complainant Nora Tacay had executed an affidavit of desistance.

Upon receipt of the information, PNP personnel of San Miguel Police Station led by Investigator SPO2 Uldarico L. Laurente Jr., with the close supervision of PSINSP DARWIN YAP YU immediately proceeded to the subject area to conduct investigation.

Initial investigation disclosed that on 28 August 2015, on or about 7:00 p.m., the said suspects arrived at the said place primarily looking for Junior Ilicano, father-in-law of their comrade Roel Ignacio y Quiñonez alias Lover Boy, 24 yrs. old, member of the BAGANI force and a resident of Purok-2 and started to shoot at bystanders and neighboring residents, hitting them in different parts of their body resulting to their instantaneous death.

Recovered evidence from the crime scene where eight (8) fired cartridges of M16 rifle, two lodged bulletsfrom M16 rifles and one fired cartridge of Carbine.Based on the initial investigation, there was no clearevidence showing that the reason of death of the two victims was allegedly by a "grenade incident".

An in-depth investigation is still ongoing. However, the San Miguel Police Station has found some difficulty in securing witnesseswho would execute sworn affidavits.During a case conference and dialogue during the Municipal Peace and Order Council Consultative (MPOC) meeting conducted on 09 September 2015 presided by Hon. Mayor Alvaro S. Elizalde, the immediate family of the victims manifested that they were no longer interested in pursuing the filing of the case nor do they have intentions to retaliate against the suspects. However, the San Miguel Police Station continues to exert efforts in close coordination with barangay officials, tribal leaders, BINs, and other stakeholders for the possible resolution of the said cases.

The Philippines' NCIP advocates for ancestral domains to be considered as sacred grounds and/or domains of peace for IPs and condemns incidents between and among IPs. ThePhilippine Governmentrecommends that the UNSR IDP conduct a more thorough

validation and analysis of the incidents and where these happened to have a clear appreciation of the IP community.

(Para 74) The Armed Forces of the Philippines (AFP) has no policy that allows the organization and arming of private groups and communities such as the IPs/Lumads. However, tribal warriors or guards are a recognized group in most indigenous communities, together with the religious leaders and the indigenous political structure. The tribal warriors or guards (also known as "Bagani" or "Alamara' – note that different tribes have different terms for similar groups) are tasked to defend their communities against external aggressors.

The Philippines' Indigenous Peoples' Rights Act ensures the independence and freedom of indigenous communities to live in peaceful existence in accordance to their culture and traditions. Conflicts are resolved through their existing political, religious, cultural and judicial processes and structures. Thus, tribal guards as directed by their political leaders known as "datus" and collectively through their tribal council, protect their territory from aggression and atrocities by entities external to their tribe. The tribes coordinate and seek assistance from the AFP, PNP and the local government units to ensure peace and order in their ancestral lands and domain.

The AFP has sufficient capability and does not need to form or create paramilitary groupsthat are not part of the State's formal armed forces to fight in armed conflicts with armed insurgent groups.

On the statement "Lumads, human rights organizations and other have accused the AFP of creating and arming the IP paramilitary groups known as 'Alamara' or 'Mag.ihat'..."

The AFP has no policy that allows the organization and arming of private groups and communities such as the Lumads. However, tribal guards that are part of the indigenous political structure, tasked to defend their communities are against the NPAs are often tagged as "Alamara" by the leftist groups.

(Para 75) Extra judicial killings(EJK) are heinous crimes and allegations of such require details. It is important that cases on EJK be substantiated with material facts so as to validate these with the AO35 databank of the Department of Justice, under the Administrative Order 35, the Inter-Agency Committee on Extra Legal Killings such as names and the place of the incident.

(Para 76) Philippine law prohibits mining and logging in Ancestral Domains. There are issues on encroachment, but these cases are in areas not covered by the law. If the IPs took up arms, it is to defend themselves from the encroachment, manipulations and control of non-IP actors. Extractive companies, large-scale plantations and other similar ventures undergo a process called FPIC (Free Prior Informed Consent). Companies that violate this rule are given notices by NCIP.

(Para 77) The NCIP is fully cognizant of the limitations of the organization, but is exerting efforts to be more responsive to the needs of the IPs. The IPRA is an exemplary law focused on "social justice". The NCIP was created through this law and caters to an estimated 14 million Philippine IPs with more or less 1,500 personnel operating on a lean budget. Notwithstanding its limitations, the NCIP has always been steadfast in its efforts and mandate. In fact, as a commission, it has actedin matters of IP health, livelihood, education, displacement/armed conflict/peace/human rights, litigations and court hearings on violations and complaints, infrastructure and others.

Currently, 69 school buildings with 169 classrooms shall be established in the far-flung IP communities to ensure free education for all IP children and even adults who would wish to enroll in elementary schools.

Social preparations activities are also being undertaken under the Kapit-Bisig Laban sa Kahirapan – Comprehensive Integrated Delivery of Social Service (KALAHI-CIDSS (KALAHI-CIDSS) program for the establishment of the schools like area validation, clearances, and development, deed of usufruct, community meetings and dialogues.

Haran Center, United Church of Christ in the Philippines, Davao City

The Philippine Government asserts that the UNSR's mutually agreed itinerary with the Philippine Government did not include the Haran Center. He Informed the State Party of his plan to travel to Haran the night before his departure on 25 July 206, a Saturday. He was specifically informed that no security arrangements had been arranged nor were government officials in the city of Davao informed of his arrival. Despite the lack of permission from the Philippine Government, the UNSR and his OHCHR assistant proceeded with the trip on 26 July 2015, a Sunday when all government offices were closed, and placed the State Party at risk for traveling to a city that was not covered by official or security arrangements. This is contrary to conduct expected of special procedures mandate holders and attention should be called for this disrespectful and unbecoming behavior.

(Para 78) The term "militarization" has often been misconstrued to apply to situations where the AFP conducts patrols in areas where there have been sightings of NPA rebels. The AFP patrols are warranted to negate NPA attacks or extortion of so-called "revolutionary taxes" from the local populace and private business companies. Based on the evidence gathered by other government agencies as well as the AFP, the so-called 700 IPs/Lumads were inveigled and deceived in leaving their communities without the knowledge and consent of their tribal leaders, to receive dole-outs and other items from politicians in Davao, only to be herded to the Haran compound and prevented from talking to their leaders.

The word "militarization" refers to the act of preparing the society for war or other emergency. It does not connote the conduct of operations by the State's armed forces against organized armed groups or to suppress lawless violence committed by non-state actors.

As for the reported incidents involving IPs, the NCIP evaluated the incidents and found that the IPs involved are from different parts of Bukidnon. Kidapawan and Davao. NCIP contacted community leaders where these IPs originated; the IP leaders denied any knowledge of the action of their members in joining the group that went to UCCP-Haran in Davao. The IP leaders of affected communities went to UCCP-Haran to convince their people to return to their communities, but the organizers prevented the IPs to return home.

(Para 79) Statements were gathered from the Office of the Tribal Assembly of Elders/Leaders signed by 48 Datus led by Datu Doming Antonio indicating that the IPs were coerced into moving to the UCCP Haran compound in Davao City with promises.

It is based on these affidavits that the AFP asserts that the victims should be returned to their respective communities. No government agency has been allowed access into the Haran compound, except for the Davao City social welfare officials, who confirmed that the IPswere living in sub-human conditions.

(Para 80) The suicide incident that was reported to have occurred in the facilities run by the United Church of Christ in the Philippines at the Haran Compound in Davao City is not an allegation. The incident happened on 23 February 2015 at 5:00 AM at the UCCP Haran Compound, Father Selga Street, Bangkerohan, Davao City. The victim's name is LITO LUNDIA, who committed suicide by hanging himself by the neck using a nylon rope tied to a mango tree branch. He belongs to the indigenous Manobo tribe and is a native of Sitio Inayaman, Barangay San Isidro, San Fernando, Bukidnon. The remains of LITO

LUNDIA were brought back to his hometown and was buried at the public cemetery. The wife, TATA ANGCOMOG LUNDIA, who couldn't bear the loss of her spouse, committed suicide a few days after the burial of her husband. Before her death, Tata Lundia, together with four others, filed a complaint-affidavit before the DOJ Prosecutor in Davao, and attested to the truthfulness of the incident and circumstances surrounding the trafficking and suicide.

The affidavits showed that the persons who brought the IPs to the Haran compound prevented the entry of other individuals into the said compound, thereby proving that the IPs victims were indeed being trafficked. The DSWD attempted to rescue the victims but was prevented from doing so.

The Philippine DSWD, as an exercise of its jurisdiction, provided services outside the UCCP Haran Compound for those who wished to go out and avail of their services. However, the IPs inside the UCCP Haran compound were prevented from leaving the facility

It should also be considered that there are tribal leaders who provided a different statement as regards their trip to Haran. In the Joint Affidavit-Complaint of Datu Kalompot Dalon, Datu Laris Landahay, and Limar Masomoy-ot (all from Sitio Inayaman, Brgy. San Jose, Municipality of San Fernando, Bukidnon), they stated that they went to Davao in the belief that they are joining a dialogue with key officials like President Benigno Aquino, Davao City Mayor Rodrigo Duterte and Congressman Manny Pacquiao. They were also allegedly promised "sacks of rice, grocery items, kitchen utensils and farm tools".

These accounts by IP leaders have prompted government officials to question the allegations of "evacuation due to armed conflict" in the IP areas when husbands and fathers such as the former Lito Lundia would leave their wives and children to evacuate only by themselves.

(Para 81) The Philippine government vehemently denies that its State forces are militarizing communities. The Philippines is a democratic country, and alleging that it is involved in militarizing civilian communities undermines its democratic standing in the community of democratic nations. The presence of soldiers in conflict-affected communities threatened by insurgents is part of the mandate of the AFP to protect the people from threats and violence. The Philippine State respectfully requests the UNSR from making judgement statements especially if these cannot be substantiated by evidence.

On the statement "...They wished to return to their land but stressed that they can only safely do so if the long-term militarization ends and they have guarantees of safety, dignity and protection. They described alleged forced recruitment into paramilitary groups which operate under the auspices of the AFP and regular harassment by the AFP in the context of the ongoing conflict," should not be attributed to the AFP as it is not engaged in any militarization activities. The presence of soldiers in conflict-affected communities threatened by insurgents is part of the mandate of the AFP to protect these communities from threat and violence caused by armed insurgents or criminal elements.

On the phrase "...The paramilitary group Alamara allegedly killed a 15-year old boy..." The actual facts of this case involved a family clan versus the NPA. Based on police reports, a man was killed by the NPA. As retaliation, the members of the man's family killed a relative of the NPA involved in the killing. This happened to bethe 15-year-old boy. It is, hence, a case of tribe vs the NPA, not the Alamara.

(Para 82) The 'schools' or 'IP schools' mentioned in the report in connection with government 'accreditation', mainly refer to the Salugpongan Ta 'Tanu Igkanogon Community Learning Center (STTICLC), which operate a network of privately-run schools. The Department of Education (DepEd) had earlier clarified that DepEd Region XI

issued a permit to operate STTICLC for SY 2015-2016 despite the delayed submission of its application and corresponding requirements to renew its permit.

Allegations of attacks, threats and harassment against schools and teachers by State and alleged paramilitary forces have been consistently referred by DepEd to the Inter-Agency Committee on Children in Armed Conflict (IAC-CIAC). The IAC-CIAC verifies these reports using factual accounts and investigation.

On the establishment of new public schools for indigenous peoples (IP) communities in Mindanao

The Philippines, through DepEd, shall open new public schools in two hundred fifty-one (251) sites in various IP communities in Mindanao. The table below provides the number of schools to be opened per region:

Region	No. of New Public Schools to open SY 2016-2017
I X	18
X	39
X I	69
X II	50
X III	75
T otal	251

The general policy and program context of this initiative is anchored on DepEd's mission to protect and promote the right of every Filipino to quality, equitable, culture-based, and complete basic education. Aside from the specific provisions of the Philippine Constitution on IPs and their right to education and cultural integrity, which DepEdis operationalizing, as guided by the National Indigenous Peoples Education (IPEd) Policy Framework (DepEd Order No. 62, s. 2011). This effort is pursued in line with the Indigenous Peoples Rights Act (IPRA) of 1997, Republic Act No. 10533 (The Enhanced Basic Education Act of 2013) and its Implementing Rules and Regulations (Section 3.4), and the IPEd Curriculum Framework (DepEd Order No. 32, s. 2015), among other related laws and policy documents.

Of the 251 new public schools to be opened in SY 2016-2017, six hundred five (605) classrooms would be constructed and five hundred eighty-three (583) new public school teachers would be deployed. DepEd shall undertake classroom construction in partnership with DSWD through its Kalahi-CIDSS National Community-driven Development Program (NCDDP). DepEd and DSWD shall employ an approach in classroom construction and school site development that is responsive to the cultural, geographical, and environmental context of the indigenous communities to be served. Classroom design shall take into consideration indigenous architecture, construction, and planning approaches, in consultation with the community. The 583 new teachers to be deployed shall be trained by DepEd on curriculum contextualization in line with its IPEd Program.

Through this initiative, DepEd intends to contribute to the expansion of the number of public schools that can offer culture-based basic education in the context of IPs, consistent with the goals of the K to 12 Basic Education Program. It also aims to bolster efforts to develop more classrooms and learning spaces that are culturally responsive, which is an integral part of creating an enabling environment for the effective implementation of a contextualized curriculum for indigenous learners.

New Public Schools in Talaingod and Kapalong, Davao del Norte

For Talaingod and Kapalong, Davao del Norte, DepEd has opened 10 new public schools (5 in Talaingod and 5 in Kapalong) last SY 2015-2016, with 22 new teachers deployed in the said schools. This coming SY 2016-2017, DepEd shall open 10 new public schools in Talaingod (wtih 20 new classrooms to be constructed and 20 new teachers) and 11 new public schools in Kapalong (wtih 26 new classrooms to be constructed and 31 new teachers).

The DepEd is also expanding access to basic education services in IP communities with the intention to scale-up the establishment of schools in indigenous communities. For 2016, the target is three hundred (300) priority sites in geographically isolated and disadvantaged areas (GIDAs) in different parts of the country. In Mindanao, there are 251 priority sites identified for the establishment of new public schools in Regions IX, X, XI, XII, and XIII.

Aside from these efforts, a high-level inter-agency task force was created to provide immediate social protection interventions for IP communities in Northeastern Mindanao. The intention of the task force is to ensure that programmed projects are aligned to priority IP communities in Mindanao.

Moreover, it must be emphasized that all establishments or infrastructures that are put up in ancestral domains must have the "free prior informed consent (FPIC)" of the community. Part of ensuring that the rule of law is enforced is to require FPIC in these areas from the duly acknowledged tribal leaders of the area.

The Rapporteur should have also asked if the schools in questions actually filed applications for accreditation. Based on records of the Department of Education, very few of these alternative learning schools (ALS) have actually filed applications for accreditation. If so, the request to be "accredited in a timely manner" becomes a futile demand.

The statement, "The demands of the IPs includes; disband and disarmed the paramilitary groups; cease forced recruitment; arrest and prosecute paramilitary or military forces that engage in violence against civilians; end tagging individuals as NPA suspects; withdrawal of the AFP from communities; ensure that schools operate freely without interference or military/paramilitary presence, threats or violence and ensure that their schools are accredited in a timely manner; ensure a functioning rule of law and law enforcement; and provide social services to indigenous peoples equal to people in other areas of the country", is a very sweeping and general statement attributed to the entire IP populace. These sentiments are not shared by every IP as majority of them do not subscribe to the violent struggle perpetrated by IP NPAs. Schools are indeed necessary in the IP communities provided this should subscribe to the standard regulations set forth by Department of Education in putting up schools in their communities. The obligation of the State to secure and protect their communities through regular presence of the AFP, particularly in areas where NPA are active, is a duty that must be exercised by the State as mandated by law.

Regarding the statement, "…ensure that schools operate freely without interference or military/paramilitary presence, threats or violence and ensure that their schools are

accredited in a timely manner..." the Department of Education (DepEd) issued DepEd Order no. 44, s. 2005 declaring its position that all schools are and should be established as zones of peace. It has also promulgated DepEd Order no. 40, s. 2012 to ensure that learners are safe from all forms of violence perpetrated by all persons/stakeholders and not just armed groups. In addition, DepEd Memorandum Circular no. 221, s. 2013 states that carrying of firearms are prohibited in the premises of the school grounds, even for personnel of government agencies permitted to carry firearms.[1]

Meanwhile, accreditation and operation of private schools also depend on the private school's compliance to the protocols and documents needed for accreditation as well as the minimum standards/requirements of operation.

(Para 83) The NCIP is mandated to protect and promote IP rights and their well-being and works with various stakeholders, whether they be the government and the military, insurgents, , international organizations or NGOs/CSOs address IP issues

NCIP organized a Certificate of Ancestral Domain Title (CADT) holder's conference which resolved that these anti-NCIP statements came from IPs who were not following customary laws and the Indigenous People's Rights Act (IPRA).

(Para 84) The schools were not closed but temporarily subjected to regulation in response to the Talaingod Tribal Council's request for government intercession.

In the bid to address the need to provide better access to basic education in IP communities, the schools being established by the DepEd adapts a design that incorporates indigenous architecture, construction, and planning approaches.

Furthermore, the occupation of AFP personnel of schools is vehemently denied. The AFP is guided by regulations while in the premises or within school or hospital premises as provided in AFP, GHQ Letter Directive No. 25, dated 15 July 2013. The AFP Letter Directive No. 25 was later rescinded by DND Circular No. 01 dated 4 February 2016, the subject of which is on Child Protection during Armed Conflict Situations.

Tampakan

(Para 85) The Philippine Government has a policy on mining which governs all mining operations in the country including defining areas where mining can be allowed. There are also processes that are enshrined in the IPRA Law concerning the use of their ancestral lands/domains. The Philippines, through the Mines and Geosciences Bureau of the Department of Environment and Natural Resources (MGB-DENR), ensures that all mining companies, including the Tampakan Cooper Gold Project in Mindanao, are compliant with RA No. 7942, also known as the Philippine Mining Act of 1995 and its Implementing Rules and Regulations, which requires Free and Prior Informed Consent (FPIC) before any Mineral Agreements, Financial or Technical Assistance Agreements or mining permits can be granted in areas subject to Certificates of Ancestral Domains/Ancestral Land Claims.

Should a Mining Agreement be reached between the mining company and the Indigenous People's communities, the concerned Indigenous Cultural Communities (ICCs) shall also receive a royalty payment of not less than one percent (1%) of the gross output of the mining operation. Thus, on the claim of 'lack of consultation', the Philippines would appreciate if the UN Special Rapporteur could cite the parties involved so that it can validate their statements.

[1] DM no. 221, s. 2013 has exceptions for carrying firearms if the peace and order situation in the area requires such measures

(Para 86) Given the geographic extent of the mine area of the proposed Tampakan Mining Project, it is projected that around 1000 households or 5,000 people could be displaced if the project were operationalized.

As of date, the Tampakan Copper Gold Project of Sagittarius Mines Inc. (SMI) has secured an Environmental Compliance Certificate on 19 February 2013 and filed its partial Declaration of Mining Feasibility (DMF), currently under evaluation by the Philippines' Mines and Geosciences Bureau (MGB). Should the DMF be approved, it shall authorize SMI to proceed with its development and operation plans.

The Philippines' National Commission on Indigenous Peoples (NCIP) leads the process of the free, prior and informed consent (FPIC), which has been ongoing for several years now. The NCIP, in its report to the Mining Industry Coordinating Council (MICC) during the 23rd Council meeting in March 2016, stated that individual Memoranda of Agreement has to be entered into by SMI with all 11 indigenous cultural communities (ICCs) located in five (5) Certificates of Ancestral Domain Title (CADT) covering the area of the Tampakan Mining Project. The MOAswould provide detailed terms of engagement as provided for under Section 32 (Contents of the MOA) of the 2012 Revised Guidelines on the FPIC and related processes of 2012.

Moreover, SMI is still in the process of negotiating with the affected indigenous people (IP) communities on possible relocation sites, including acceptable resettlement packages. For non-IP communities, the SMI has also been seeking the assistance of the Local Government Unit of Tampakan to identify possible resettlement areas. The SMI. in coordination with DENR-MGB, has also put in place safeguards to ensure the protection of the cultural identity of the IPs and minimize the impact of resettlement to the environment.

The decision rests on the IP community as rightful owners of the ancestral domain. Since the mining project in Tampakan is still under negotiation, no displacement has occurred.

(Para 87) On the statement that the FPIC 'had not been transparent or inclusive", it should be reiterated that the NCIP ensures that its processes are participatory and inclusive. For the 'Tampakan Project", the NCIP further emphasizes that each IP community is consulted.

IP communities can file complaints against NCIP personnel whom they perceive to be violating the FPIC. The Philippines also views as unfair the UNSR's use of unverified accounts in his report, without informing the State Party of the incident during the exit conference on 31 July 2015. Again, the UNSR is utilizing a naming and shaming strategy by publishing unverified accounts in his report without giving due process to the State Party to verify his statements.

(Para 88) On the alleged killing of mining activists, the Philippine National Police has conducted its investigation into the incident and appropriate judicial proceedings will be pursued.

(Para 89) On the statement that "...amounts to a scenario in which a responsibly operated open-pit mine of such large scale does not seem feasible. Philippine government authorities bear the major responsibility for this fragile situation in the Tampakan area,", it should be noted that mining operations will not commence pending the FPIC process. The report is pure speculation.

(Para 90) It is recommended that the UNSR study the situation further before making sweeping generalizations.

(Para 91) Noted.

(Para 92) The State is committed in having a responsive and reliable IDP Law. The proposed IDP law is part of the transition report that the present administration will endorse as a top priority to the next administration.

(Para 93) Please see comments in Paragraph No. 78,

(Para 94) Ninety-five percent (95%) of all commitments and pledges were divested to UN agencies; only 5% was downloaded to the Philippine government.

(Para 99) The Philippines appreciates the recommendations of the UNSR and assures that the Philippine Government will continue to address issues faced by IDPs.

(Para 110) It must be noted that the Philippines, through DSWD, conducts consultation processes with the IDPs and that safety is the primary concern.

(Para 112) The Philippines, through DSWD, stated that Administrative Order No. 9, series of 2014- "Guidelines in the Implementation of Temporary Shelter Assistance and Prioritization of Victims of Disaster/Internally Displaced Persons Thereto" was created in order to provide assistance to legitimate beneficiaries. The Disaster Assistance Family Access Card (DAFAC) is a documentation tool in a form of card issued to disaster victims and IDPs indicating the general information of the family head and its members from which the family profiling and master listing are based upon and the assistance provided or availed of by the Department, local governments units and non-government partners.

(Para 118)The Philippines declares ancestral domains as sacred grounds/domains of peace.

(Para 119) Where the UN SR report recommends finding a rapid and peaceful solution that includes the demands of the IPs in the Haran Center, the Philippines, through the NCIP, recommends that the UNSR look further than the Haran issue and take into consideration communities who have chosen to remain in their ancestral domains

It must also be noted that UCCP Haran has not been cooperating with the national offices of the Department of Social Welfare and Development and the Bureau of Fire Protection,as both agencies have not been able to enter the compound.

(Para 120) on the recommendation on having full consultation with the IPs, it should be noted that all the attempts to consult with the IPs were executed through theIP leaders.

(Para 122) Regarding development projects, the government maintains that development projects undergo a rigorous evaluation process cognizant of a human rights based approach with the goal of maintaining inclusivity.

(Para 128) The Philippines notes that while assistance from the international community is welcome, said aid should be done in accordance with requests from the Philippine government.

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the human rights of internally displaced persons on his mission to the Syrian Arab Republic: comments by the State

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the comments by the State on the report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani.

* Reissued for technical reasons on 13 June 2016.

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Report of the Special Rapporteur on the human rights of internally displaced persons on his mission to the Syrian Arab Republic: comments by the State**

** Reproduced as received.

ملاحظات الجمهوريّة العربيّة السوريّة حول
تقرير زيارة المقرر الخاص المعني بحالة حقوق الإنسان
للأشخاص النازحين داخلياً
إلى الجمهوريّة العربيّة السوريّة
(16-19 أيار 2015)

ملاحظـــات عامـــة حـــول التقريـــر

1. يندرج مضمون التقرير عموماً **خارج الإطار الزمني للزيارة** التي قام بها السيد المقرر، وخارج مشاهداته وما اطلع عليه وناقشه خلالها، وإنّ قصر مدة الزيارة أو التذرع بعدم تمكنه من توسيع إطارها الزماني أو المكاني، لا نراه مبرراً لمثل هذا التوجه، خاصةً أنّ المهلة الزمنيّة والمناطق التي تمت زيارتها رُتبت بناءً على طلبه واختياره، وبالتنسيق معه، وإن كان المقرر قد كرر فكرة عدم تمكنه من الاطلاع بشكلٍ وافٍ على واقع النزوح بسبب الأوضاع الأمنية في بعض المناطق السوريّة التي تتواجد فيها المجموعات الإرهابيّة المسلحة، فذلك أكبر دليل على أنّ ظاهرة النزوح، وغيره من التحديات الإنسانيّة التي يعيشها السوريون اليوم، تعود إلى وجود هذه المجموعات، فهي العائق الرئيسي أمام تقديم الحماية والمساعدة الإنسانيّة لمستحقيها. وفي هذا السياق نُذكّر أنّ زيارة المقرر لم تشمل كذلك بعض المحافظات السوريّة الآمنة التي تستضيف أعداد هائلة من النازحين، مثل محافظتي طرطوس والسويداء، التي لم يطلب المقرر زيارتها مع أنها كانت ستوفر له فرصة إضافيّة للاطلاع على واقع النزوح في سوريا وتقييمه.

2. نتيجة هذا النهج الذي اتبعه المقرر أتى تقريره في غالبيته مستنداً إلى **معلومات وتقارير** اختارها، وأحياناً **أفكار غير معروفة المصدر**، أكثر من اعتماده على الحقائق التي اطلع عليها أثناء زيارته، والمعلومات التي كانت محلاً للنقاشات والحوارات التي أجراها أثناءها، بالتالي أصبح التقرير الذي بين أيدينا أقرب إلى أن يكون تقرير عام عن ظاهرة النزوح، أشبه بالتقرير الذي قدمه المقرر الخاص عام 2013، مع الفارق أنّ التقرير السابق أتى بتفويض من الجمعية العامة للأمم المتّحدة وعلى أساس قرارها (67/262)، أما التقرير الحالي فمن المفترض أن يعكس ما اطلع عليه خلال زيارته إلى البلد المعني بشكلٍ أساسي، وضمن الضوابط التي تؤطر الزيارات الميدانيّة لأصحاب الولايات الخاصة التابعين لمجلس حقوق الإنسان وفقاً لما تضمنه قرار مجلس حقوق الإنسان (5/2).

3. في هذا السياق، فقد اعتمد المقرر على مصادر معينة أدت إلى **حرف تقريره عن هدفه، وإدخال أفكار محددة عليه**، فوقع في مطب التكرار أو الاقتباس من تقارير

هيئات دولية حكوميّة أو غير حكوميّة انتهجت نهجاً غير مهني أو غير محايد في التعاطي مع الأحداث في سوريا، حتى دون أن يتكلف عبء تحليل هذه المعلومات أو مقاربتها من زاوية ما شهده وسمعه أثناء زيارته، ودون أن يعكس وجهة نظر الحكومة السوريّة إزاء العديد من القضايا والأفكار التي عرضها في تقريره. ومن الملاحظ أنَّ العديد من هذه الأفكار لم تكن موجودة أو مطروحة في بيان ختام الزيارة والملاحظات الأوليّة التي صدرت في أعقابها، مما يُثير التساؤلات حول إقحامها بالتقرير بهذه الطريقة. كنا نأمل ألا تجد هذه الأفكار طريقها إلى التقرير، وألا يجعل المقرر منه وسيلة لتمريرها، وهو ما لا يتفق مع أول واجباته المهنيّة ألا وهو النأي بنفسه عن أي شكل من أشكال التأثُّر، تحت أي سبب كان، بما يبعده عن الوصول إلى تقييمات واستنتاجات موضوعيّة، والسعي دوماً إلى تقصي الحقائق، استناداً إلى معلومات موضوعيّة موثوقة.

4. من اللافت في التقرير غياب عرض **وجهة نظر الحكومة السوريّة** حول الكثير من القضايا التي طرحها، وهنا لا نطلب من المقرر تبني وجهة النظر هذه أو الحكم عليها، بل عرضها في السياق الملاءم للتقرير، وذلك هو أحد واجباته في مراعاة المعلومات التي تقدمها الدولة المعنية بشأن الحالات المتصلة بولايته، مراعاةً شاملةً وفي الوقت المناسب، فكيف إذا كان الأمر يتعلق بتقرير زيارة قطريّة من المفترض أن تؤسس لتعاون وحوارٍ مستقبلي مع الولايّة.

5. لعل **الضياع اللافت في المصطلحات** هو دليل على التشتت الذي أصاب بعض مفاصل التقرير، فعلى سبيل المثال؛ وفي تعبيره عن المجموعات الإرهابيّة التي تواجهها سوريا نقرأ في التقرير عن متمردين ومجموعات مسلحة ومتطرفين ومجموعات مدرجة على قوائم الإرهاب أو مصنفة دوليّاً كإرهابيّة، وأحياناً يستخدم التقرير مصطلحات متعددة للإشارة إلى نفس الجهة في سياقاتٍ مختلفةٍ.

6. تطرق المقرر إلى جوانب عدة تتعلق بتطبيق **القانون الدولي الإنساني** بطريقة خارجة عن ولايته المتمثلة بتقييم المعلومات في ضوء معايير حقوق الإنسان المعترف بها دولياً وذات الصلة بولايته، ومع ذلك سنقدم بعض الإيضاحات بشأن هذه الجوانب خلال الملاحظات التفصيليّة على التقرير.

7. نرفض رفضاً مطلقاً النزعة التي تحاول إضفاء **طابع طائفي** على النزاع في سوريا، والتي تأثر فيها المقرر في الفقرات (69) و(70)، إذ تتجاهل هذه النزعة تاريخ سوريا وحاضرها، وتؤسس على معطيات مفتعلة، لا تمت بصلة إلى حقيقة ما يجري فيها، ولا هدف لها إلا تمزيق النسيج الاجتماعي السوري.

8. نتفق مع المقرر على أنّ تسليط الضوء على **قضية النازحين داخلياً لم تلق الاهتمام اللازم على الصعيد الدولي**، وهنا نشدد على أنّ أحد أهم أهداف ولاية المقرر الخاص تعزيز الاستجابة الدوليّة لمواجهة ظاهرة النزوح الداخلي، هذه الاستجابة التي لا بد أن تكون متسقة مع مبادئ تعزيز تنسيق المساعدة الإنسانيّة التي تقدمها الأمم المتّحدة في حالات الطوارئ التي تضمنها قرار الجمعية العامة للأمم المتّحدة (46/182).

9. أقر التقرير **بالأعباء الهائلة التي تواجهها الحكومة السوريّة** إزاء ظاهرة النزوح، وهنا نشدد على أهميّة التعاون الدولي في مواجهة هذه الحالات وتعزيز قدرة البلدان المتضررة على الاستجابة وتكميل جهودها وذلك وفقاً لمبادئ الحياد والإنسانيّة والنزاهة، وبالاتساق مع القوانين الوطنيّة.

10. نتفق مع المقرر على أهمية **إيجاد حلول مستدامة لظاهرة النزوح**، وهذا هو الهدف النهائي للحكومة السوريّة التي تعمل على تحقيقه من خلال الآتي:

أ. الاستمرار في جهود مكافحة الإرهاب وضمان عودة الأمان والاستقرار؛

ب. العمل على إعادة تأهيل المناطق المتضررة من ناحية البنية التحتيّة وتزويدها بالخدمات الضروريّة من ماء وكهرباء واتصالات وصرف صحي. ومن التجارب في هذا المجال يمكن الإشارة إلى تأهيل منطقة الحسينيّة في ريف دمشق وعودة سكانها إلى بيوتهم، وتجربة مدينة حمص، فمنذ إنجاز اتفاق المصالحة في أيار 2014، الذي أدى إلى تأمين مركز المدينة والعمل متواصل على المخططات التنظيميّة للأحياء التي لحقها أضرار بالغة (بابا عمرو والسلطانيّة وجوبر)، في حين عاد سكان الأحياء الأقل ضرراً (الحميدية وبستان الديوان والورشة وباب السباع) بعد إزالة الأنقاض (حوالي 300 ألف طن من الأنقاض) وتوفير الخدمات الأساسية؛

ت. الاستمرار في تنفيذ المصالحات الوطنيّة في مناطق متعددة من الجمهوريّة العربيّة السوريّة؛

ج. دمج البعد التنموي في خطط الاستجابة الإنسانيّة.

11. كان من المنتظر أن يوجه المقرر **توصيةً إلى الدول** التي تدعم المجموعات الإرهابيّة المسلحة بوقف أي شكل من أشكال هذا الدعم، وبدون ذلك؛ من غير الممكن إيجاد حل دائم وجذري للمعاناة الإنسانيّة في سوريا.

12. كنا نأمل أن يوجه المقرر الخاص **توصيةً إلى الدول والمنظمات الإقليميّة** التي تفرض تدابير أحاديّة قسريّة على الجمهوريّة العربيّة السوريّة تتضمن رفع هذه التدابير بشكل فوري، واستئناف برامج التعاون الإنمائي التي توقفت، خاصةً في ظل تأثير هذه التدابير الكارثي على التنميّة من جهة وعلى العمل الإنساني من جهةٍ أخرى.

13. فات المقرر كذلك توجيه **توصيةً إلى الدول بأداء تعهداتها الإنسانيّة**، وإعادة توجيه قسم من التمويل ليشمل خطط الاستجابة الإنسانيّة التي تُنفذ بالتعاون مع الحكومة السوريّة.

14. أخيراً لا بد من التأكيد على أنّ الحكومة السوريّة تبقى منفتحة على التعاون مع هيئات الأمم المتّحدة، بما فيها مقرريها الخاصين، وذلك في إطار خطة الاستجابة الإنسانيّة وقرار الجمعيّة العامة للأمم المتّحدة (46/182)، للتوصل إلى أفضل الحلول التي تكرس عودة المواطنين السوريين النازحين داخليّاً إلى مناطقهم الأصليّة وتأمين أفضل سبل المعيشة لهم وحمايتهم، ولا بد من الإشارة إلى أنّه مهما بلغ حجم الجهود المبذولة، وطنياً ودوليّاً، فإنها ستعجز عن تحقيق أهدافها في ظل استمرار دعم دول معينة للجماعات الإرهابيّة المسلحة على الأراضي السوريّة، وفي ظل استمرارها بفرض التدابير الأحاديّة القسريّة اللاشرعيّة، والتي أثرت على معيشة المواطن السوري المهجر وغير المهجر على حدٍ سواء.

ملاحظات تفصيليّة على التقرير

1.الفقرة (8) حول نشأة الأحداث في الجمهوريّة العربيّة السوريّة:

نرى أنّ اختيار المقرر التطرق إلى هذا الموضوع بهذه الطريقة يوجب عليه تناوله بصورةٍ كاملةٍ وموضوعيّةٍ، من خلال تسليط الضوء على دور الدول التي وفرت السلاح للمجموعات المسلحة وانخرطت في دعمها لها منذ اليوم الأول للأحداث في سوريا، فما وصفه المقرر على أنّه حراك داعم للديموقراطيّة، تحول إلى عمليات حمل للسلاح ومواجهة للقوات الحكوميّة، منذ اليوم الأول، وهو ما أقر به التقرير، وذلك يحمل في طياته الدليل على وجود تخطيط وتسليح استُغل ما أسماه بالحراك السلمي.

من الجدير الإشارة إليه أنّ القوات الحكوميّة كانت تتمثل في ذلك الوقت بعناصر حفظ نظام، على خلاف ما حاولت ولا تزال تحاول تقارير دوليّة مختلفة، من داخل وخارج منظمة الأمم المتّحدة، ترسيخه والترويج له على أنّه "حملة حكوميّة لقمع وللاعتداء على التظاهرات السلميّة". قامت الحكومة السوريّة بحماية تلك التظاهرات، رغم أنها كانت آنذاك غير مرخصة، بل وصدرت تعليمات حكوميّة آنذلك، بعدم حمل السلاح من قبل عناصر حفظ النظام وتحت أي ظرف كان، الأمر الذي استغلته تلك العناصر التي تسميها التقارير بالسلميّة، للقيام بحملات شغب وعنف وتخريب للمنشآت العامة، واستخدام للسلاح وإطلاق للنار على المتظاهرين لإلصاق التهم بالحكومة، وهو ما أدى إلى سقوط العديد من الشهداء من عناصر حفظ النظام.

2.الفقرات (10)، (14)، (15)، (55)، وغيرها، حول أسباب ظاهرة النزوح في الجمهوريّة العربيّة السوريّة: نرفض رفضاً تاماً ما توصل إليه المقرر، نقلاً عن بعض التقارير، بأنّ نشاطات ما أسماه بـــ"كل الأطراف"، هي التي سبب النزوح في سوريا، رغم أنّ العديد من الحوادث التي انتقاها المقرر تُظهر وبشكلٍ جلي أنّ المجموعات الإرهابيّة المسلحة كانت السبب في نشوء هذه الظاهرة، لكنه فضّل مناقضة نفسه ومناقضة الواقع والحديث، نقلاً عن أحد المراكز غير الحكوميّة، بمنطق المساواة بين أعمال المجموعات الإرهابيّة المسلحة والحكومة السوريّة التي تؤدي واجبها الدستوري بمكافحة الإرهاب وحماية مواطنيها وتقديم المساعدة لهم.

وما **كان يجب أن يغيب** عن بال المقرر إيراد ملاحظةٍ جوهريّةٍ وهي أنّ حركة النزوح في أغلبيتها اتجهت نحو المناطق التي تسيطر عليها الحكومة السوريّة.

أما عن **اللجوء إلى خارج سوريا بسبب عدم وجود خيارات بديلة آمنة**؛ فالهجرة أو اللجوء ليس مبرره الوحيد عدم وجود خيارات آمنة في الداخل السوري، بل أضحت أسبابه متشابكة ومتعددة، منها الصعوبات اليوميّة التي يكابدها السوريون، إلى جانب ممارسات المجموعات الإرهابيّة المسلحة المتمثلة بتطويق بعض المناطق وفصلها عن الداخل السوري، ودفع حركة النزوح باتجاهاتٍ معينةٍ لاستغلال هذه القضية على الصعيد الدولي.

3.واجبات الحكومة السوريّة في حمايّة ومساعدة مواطنيها:

نرفض رفضاً تاماً أي مزاعم أو ادعاءات حول استغلال الجمهوريّة العربيّة السوريّة للمعاناة الإنسانيّة للمواطنين، مثل ما ورد في الفقرة (14)، أو ما نقله عن أحد المراكز غير الحكوميّة في الفقرة (15) مشيراً إليه بـــ"فشل" منسوب للحكومة السوريّة في حمايّة المواطنين من أو أثناء النزوح، ففي هذه الفقرة غبنٌ وتنكرٌ للجهود الكبيرة التي تبذلها الحكومة السوريّة التي تعتبر حماية ومساعدة مواطنيها، بمن فيهم من تعرضوا للنزوح، واجباً دستورياً وأخلاقياً، يفرض عليها تأمين الحمايّة والاستجابة الإنسانيّة المستمرة والمنسقة بالتعاون مع الشركاء الوطنيين والدوليين، وفق الهيكليّة المؤسسيّة للعمل الإغاثي في سوريا، والتي اطلع عليها أثناء زيارته، وكان من المنتظر عكسها بشكلٍ موضوعي وعادلٍ في تقريره، واقتباس المقرر مثل هذه العبارات وتكرارها دون أي تحليل، لا يخدم أجواء الحوار والتعاون معه. **ولعل دعوته من قبل الحكومة السورية كانت خير دليل على رغبتها في تطوير قدراتها في هذا المجال.**

النازحون قبل أي شيء هم مواطنون سوريون، يتمتعون بكافة حقوق المواطنة دون أي تمييز إلا إذا كان **تمييزاً إيجابيّاً** يضمن لهم معاملةً تفضيليّةً ناجمة عن الأوضاع التي يمرون فيها، وبما يضمن التركيز على جانب الحمايّة الذي هو عنصر هام في عمل الحكومة السوريّة، سواء الشق الإنساني أو الشق العسكري والأمني المتعلق بمكافحة الإرهاب، والتشكيك فيه ليس إلا محاولة لخلق الذرائع التقليديّة للتدخل في شؤون الدول بعيداً عن أي أسباب إنسانيّة أو ذات صلة بحقوق الإنسان.

4.الفقرة (54) والفقرة (57) استهداف من قبل كل الأطراف" للمدنيين والأماكن المأهولة:

دأبت بعض التقارير والأوساط الإعلامية على الترويج لمثل هذه الادعاءات، لإلصاق تهم استخدام أسلحة عشوائية من قبل الجيش العربي السوري. **الجيش السوري لا يستخدم أسلحة عشوائيّة في جهوده المستمرة لمكافحة الإرهاب**، وهو يلتزم بقواعد القانون الدولي الإنساني في عملياته العسكريّة، خاصةً مبدأ التناسب ومبدأ التمييز بين الأهداف المدنيّة والعسكريّة، وهو ما أدى إلى تحويل سياق بعض العمليات أو تأخيرها أو حتى إلغاءها، حرصاً على سلامة المدنيين، الذين اتخذتهم المجموعات الإرهابيّة المسلحة دروعاً بشريّة أكثر من مرة، أو المراكز المدنيّة، كالمشافي والمدارس، التي احتلتها هذه المجموعات وحولتها إلى أماكن عسكريّة.

وفي سياق الجهود الرامية لحمايّة المدنيين تبذل الجهات الحكوميّة جهوداً لإخراجهم من مناطق تواجد المسلحين كما حصل عام (2015) في الغوطة الشرقيّة، حيث تم إخراج (1500) عائلة من مناطق تواجد المجموعات الإرهابيّة، بتنسيقٍ بين كل من الجيش العربي السوري والهلال الأحمر العربي السوري.

كما يحرص الجيش العربي السوري على توجيه تحذيرات مسبقة للمدنيين بشأن المناطق التي من الممكن أن تشهد عمليات عسكريّة، ويطلب منهم عدم الاقتراب منها أو التوجه إليها.

5.الفقرات ذات الصلة بمشاغل العمل الإنساني في سوريا مثل الفقرات (26) حول تسهيل الوصول الإنساني، الفقرة (30) الحاجة إلى الوصول إلى المناطق صعبة الوصول والمناطق المحاصرة وتقييم حاجات النازحين فيها وتقديم الدعم والمساعدة إليهم، والفقرة (27) التذرع بالعوامل الأمنيّة لعرقلة العمل الإنساني، والفقرتين (28) و(29) والفقرة (39) ووجود حالة من البيروقراطية في العمل الإنساني، والفقرة (58) حول استخدام الحصار:

رغم أنّ هذه المشاغل كانت محلاً لمئات الرسائل والمذكرات الموجهة إلى هيئات الأمم المتّحدة المختلفة، كما أنها احتلت جانباً من النقاشات التي عقدها المقرر مع الحكومة السوريّة، إلا أن المقرر عمد إلى تكرار مزاعم بشأنها، مجدداً، نقلاً عن تقارير أخرى، دون أن يعكس وجهة نظر الحكومة السوريّة بشكلٍ وافٍ.

نشدد في هذا السياق على أهمية الالتزام **بمبادئ العمل الإنساني** التي تضمنها قرار الجمعية العامة للأمم المتحدة (182/46)، والتي تفرض احترام سيادة الدول وسلامتها الإقليميّة ووحدتها الوطنية احتراماً كاملاً، وتنفيذ العمل الإنساني وفقاً لمبادئ الحياد والإنسانيّة والنزاهة، لتكميل الجهود الوطنية وتعزيزها.

تبنت الحكومة السوريّة سلسلةً من التدابير كان هدفها الأساسي إيصال المساعدات الإنسانيّة إلى كل محتاجيها، دون تمييز وأينما وجدوا، إلى جانب ضمان حماية العاملين في المجال الإنساني، وفقاً لالتزاماتها الدوليّة، ومن الجدير الإشارة إليه أنّه في العديد من الحالات اعتذرت المنظمات الدوليّة عن تنفيذ إيصال المساعدات إلى عدد من المناطق بحجة أن الظروف الأمنيّة تحول دون الوصول إليها، وتولت عوضاً عن عنها كوادر الهلال الأحمر العربي السوري هذه المهمة بالتنسيق مع الأمم المتّحدة.

أما عن حالات الحصار الذي هو سلوك انتهجته المجموعات الإرهابيّة المسلحة، وفرضته مراراً على عدة مناطق في الجمهوريّة العربيّة السوريّة، من الخارج؛ عندما استعصى دخولها إلى مراكز المدن والبلدات، أو من الداخل؛ عندما تتمكن من التمركز في قلب مراكز المدن أو البلدات، ويترافق ذلك باتخاذ المدنيين رهائن ودروعاً بشريّة، ومصدراً للارتزاق من خلال بيعهم المواد الغذائيّة.

تبذل الحكومة السوريّة جهوداً كبيرةً للتعامل مع حالات الحصار هذه والتخفيف من وطأتها وإيصال الحد الأدنى من مستلزمات الحياة بالتعاون مع الأمم المتّحدة، ويمكن أن نذكر كمثال على ذلك الاتفاق الذي تمّ التوصل إليه فيما يتعلق ببلدات مضايا والزبداني وكفريا والفوعة، والاستعانة بالعمليات الجويّة المتضمنة إلقاء المواد عبر الحوامات (كما كان الحال في كفريا والفوعة) ودير الزور (من خلال استخدام مطار دير الزور العسكري)، إلى جانب إعفاء المواد الإغاثية من الضرائب والرسوم.

وبالنسبة لما ورد في الفقرة (18) حول ما يُعرف بإدخال **المساعدات عبر الحـــــــدود**: نجدد التأكيد على موقف الجمهورية العربية السورية بأن إدخال المساعدات عبر المعابر الحدوديّة غير الرسميّة، أثبت عدم جدواه لأسبابٍ متعددةٍ أهمها غياب الشفافيّة في هذا النوع من العمليات، واستحالة قدرة الأمم المتّحدة على

التأكد من وصول المساعدات إلى مستحقيها من المدنيين، والغموض الذي يكتنف عملية تقدير وتوزيع المساعدات والشركاء المعتمدين في عملية التوزيع أو اعتماد شركاء مرتبطين بالمجموعات الإرهابيّة المسلحة والتي تعمل على استلام هذه المساعدات وبيعها بأسعار باهظة أو احتكارها لمقاتليها فحسب. وبمقارنة المستفيدين من المساعدات التي يتم توزيعها عبر الحدود، والمساعدات المقدمة عبر الخطوط (من الداخل السوري) يتوضح الفرق الشاسع بين نسب المستفيدين، لصالح الأخيرة، مثلاً أظهرت المقارنة التي تمت خلال أشهر حزيران وأيار ونيسان وآذار من عام 2015، أنّ نسب المستفيدين من المساعدات المقدمة عبر الحدود مقارنةً إلى المستفيدين من المساعدات المقدمة عبر الخطوط كانت على النحو الآتي: (15%، 26%، 11%، 15%) فقط.

6.الفقرات (24) (25) (36) (37) (40)، حول أوضاع مراكز الإيواء:

لعل أبرز التحديات التي تواجهها الحكومة السورية في هذا المجال ارتفاع عدد النازحين مقابل عدم توفر أبنية مناسبة وكافيّة لاستخدامها كمراكز للإيواء، والتكلفة الباهظة لتأهيل الأبنية لاستخدامها لهذا الغرض، وعدم توفر التمويل اللازم.

في ظل هذا التحدي لجأت الحكومة السوريّة إلى تخصيص عدد كبير من المباني الحكوميّة لاستخدامها كمراكز إيواء، منها المدن الرياضيّة ومراكز الأنشطة التربويّة والمدارس ودور العبادة ومراكز التنميّة الريفيّة ومراكز الرعايّة الاجتماعيّة. ومنذ بداية الأحداث الراهنة في سوريا تقوم وزارة الإدارة المحليّة، بصفتها المسؤول الرئيسي عن هذا المحور من العمل الإغاثي، بتنفيذ مشاريع كثيرة ومستمرة، بالتعاون مع المنظمات الدوليّة الحكوميّة وغير الحكوميّة، لتأهيل مراكز الإيواء الحكوميّة، أو تأهيل عدد من المباني غير المنتهيّة لاستخدامها لهذا الغرض. مثل مشروع الوحدات السكنيّة الذي تمّ الاتفاق بموجبه مع مفوضيّة الأمم المتّحدة الساميّة لشؤون اللاجئين على تمويل (200) وحدة سكنيّة في منطقة الحرجلة في ريف دمشق، والمشروع قيد التوسع والتطبيق في محافظات أخرى.

كما تعمل الوزارة على تنفيذ مشاريع هدفها التأهيل السريع للأبنيّة الخاصة قيد الإكساء، وتأهيل المنازل المتضررة جزئياً، بعد الحصول على موافقات مالكيها وحل الإشكالات القانونيّة الناجمة عنها، بغرض استخدامها كمراكز للإيواء.

أما ما ورد في الفقرة (61) بشأن الموقع غير الآمن لأحد مراكز الإيواء، فنلفت هنا إلى أنّ مراكز الإيواء تقع في غالبيتها في مراكز المدن، نتيجة طبيعة الأماكن التي خصصتها الحكومة لهذا الغرض، وفق ما أشرنا إليه أعلاه.

7. الفقرات ذات الصلة بتأثير الإجراءات الأمنيّة المتمثلة بنقاط التفتيش وإجراءات مراقبة الحدود، والفقرات ذات الصلة بالممارسات المنسوبة إلى نقاط التفتيش مثل الفقرات (56)، (32) (67):

نستغرب ملاحظة المقرر حول بعض الإجراءات الأمنيّة (حواجز التفتيش ومراقبة الحدود) فمثل هذه الإجراءات تُعتبر بديهيّة لأي سلطات مختصة في أي دولة في العالم، تقوم بها في الأوقات الاعتياديّة لحمايّة مواطنيها، حتى في الحالات التي يكون فيها مستوى المخاطر الأمنيّة منخفضاً، فكيف إذا كانت بلد تواجه إرهابيين من أكثر من (100) جنسية، كما هو حال سوريا.

كان الأجدر بالمقرر تسليط الضوء على ظاهرة الحدود التي فُتحت للإرهابيين، ولمدهم بالسلاح وغيره من أشكال الدعم، والتي لا تزال السبب الرئيسي لمعاناة السوريين الإنسانيّة، وتهجيرهم في الداخل وإلى الخارج السوري، ولسرقة ونهب الموارد الاقتصاديّة والآثار، وهو ما عزز قدرات التنظيمات الإرهابيّة ودعم وجودها ووسع سيطرتها على حساب تعميق ومد أمد المعاناة الإنسانيّة للسوريين.

نلفت هنا أن تدابير مكافحة الإرهاب التي تقوم بها الحكومة السوريّة بهدف منع الاعتداءات الإرهابيّة أو الحد منها أو التصدي لعواقبها ومكافحتها، تُنفذ على أساس مراعاة **مبدأي المساواة وعدم التمييز**، كمبدأين راسخين في القانون الدولي لحقوق الإنسان وفي الدستور السوري، وإن كانت هنالك تقييدات التي فرضتها الظروف الحالية على بعض حقوق الإنسان، فإن هذين المبدأين يبقيان في صلبهما.

كافة التدابير، بما فيها تدابير تقييد حرية الأفراد في التنقل، تحترم بالكامل **مبدأ المشروعيّة**، فهي تستند إلى نصوص قانونيّة محددة، كما تحترم **مبدأي الضرورة**

والهدف المشروع، فالقيود المفروضة على بعض الحقوق ضروريّة لتحقيق هدف مشروع ألا وهو حماية الدولة لمواطنيها من خطر الإرهاب، إلى جانب التزامها بمبدأ التناسب بين الهدف والفائدة المرجوة من تحقيقه.

من الجدير ذكره أنّ نهج تعزيز الثقة الذي تسعى إليه الجهات القائمة على تدابير مكافحة الإرهاب، عسكريّة كانت أم أمنيّة، والمواطنين، دفع أبناء العديد المناطق إلى الإبلاغ عن وجود خلايا إرهابيّة، والتعاون مع هذه الجهات في الكشف عنها وملاحقتها.

لا بد من الإشارة إلى الجهود الكبيرة التي تقوم بها وزارة المصالحة الوطنية في تسهيل الحركة من المناطق التي تتواجد فيها المجموعات الإرهابيّة المسلحة، سواء لتهيئة الظروف المناسبة لتسهيل العمل الإغاثي، أو لتسهيل مرور الطلاب والحالات الإنسانيّة.

8. الفقرة (19) غياب الإطار القانوني لمعالجة مشكلة النزوح:

رغم الإقرار بأهمية وجود هذا الإطار، إلا أن ذلك لا ينفي وجود حزمة من القوانين المتفرقة التي يستند إليها عمل الهيئات الحكوميّة المعنية والسياسات والبرامج قيد التنفيذ.

كما يضمن الإطار المؤسسي المفصّل للعمل الإغاثي في سوريا، والذي اطلع عليه المقرر أثناء زيارته، وذلك من خلال التنسيق الفعّال بين مختلف الجهات الفاعلة الوطنيّة والدوليّة وعلى عدة مستويات، يضمن الإشراف والتنسيق والتقييم لخطط الإغاثة التي تتألف من العناصر التاليّة: الصحة والتعليم والحمايّة والدعم الاجتماعي والتعافي المبكر والاستدامة والسكن والإيواء ومياه الشرب والصرف الصحي ودعم العمل الزراعي بما يضمن توفير الحماية والمساعدة للنازحين ودمج البعد التنموي في العمل الإغاثي.

9. الفقرات ذات الصلة بضرورة توفير معلومات وخرائط حول أماكن تموضع النازحين، كالفقرة (22) والفقرة (23) حول توفّر هذه البيانات:

توفير البيانات **أمرٌ بالغ الأهميّة بالنسبة للجهات الحكوميّة السوريّة** أولاً، وهو ما دفع إلى إنشاء وحدة خاصة ضمن الإطار المؤسسي للعمل الإغاثي، وهي وحدة الإدارة الوطنيّة التابعة لوزارة الإدارة المحليّة التي تُعتبر الذراع المعلوماتي والتقني للجنة العليا للإغاثة، من بين ما تقوم به توفير بيانات محدثة باستمرار عن المهجرين ومراكز الإيواء، وتوزيع البيانات على الجهات المعنيّة بما يساعد على تكييف الخطط والأولويات، كذلك تقوم اللجان الفرعيّة المنبثقة عن اللجنة العليا للإغاثة من خلال إشرافها على العمل الإغاثي على مستوى المحافظات، بتحديث قواعد البيانات ذات الصلة باستمرار، من بينها قاعدة البيانات للمستفيدين من المساعدات المقدمة من الحكومة السوريّة والمنظمات الدوليّة.

كما نشير هنا إلى إنشاء الحكومة السوريّة وحدة لتتبع الانزياحات السكانيّة ورصدها والتعرف على احتياجات النازحين، وفي السياق ذاته؛ تمّ إنشاء النظام الالكتروني للاستجابة للأزمة، بهدف توفير بيانات ذات صلة بعدة قضايا إغاثية، منها تقييم أعداد النازحين في جميع المحافظات، وما اتخذ وما يلزم اتخاذه من إجراءات.

كل المعلومات التي يتم توفيرها وفق الآليات آنفة الذكر تتاح وفق آليات التنسيق الموجودة للهيئات الدوليّة الشريكة في تنفيذ العمل الإغاثي.

10. الفقرتين (32) و(33) حول المشكلات المتعلقة بالتسجيل والتوثيق واحتماليّة وجود مخاوف أمنيّة لدى بعض النازحين من استبدال الوثائق الرسميّة:

مشكلات التسجيل والتوثيق **هاجسٌ ليس فقط للنازحين، بل لكل السوريين**، نتيجة تعرض عدد كبير من مراكز الخدمة المدنيّة إلى التدمير والحرق من قبل المجموعات الإرهابيّة المسلحة.

للتعويض عن ذلك قامت وزراة الداخليّة، عن طريق مديرية الشؤون المدنيّة، بإنشاء مراكز متخصصة في المحافظات الأمنة تقوم بالمهام التي كانت تقوم بها أمانة السجل المدني في المناطق والنواحي التي تم تدميرها وحرقها من قبل المجموعات الإرهابيّة المسلحة، من خلال منح وثائق الأحوال المدنية حاسوبياً عن طريق بوابة الكترونيّة تم ربط العديد من مراكز خدمة المواطن فيها.

تسهيلاً على المواطنين، تُسجل الواقعات التي تطرأ على النازحين في أماكن إقامتهم لدى أمانات السجل المدني أو في المراكز المخصصة لتسجيل واقعات الأحوال المدنية للمحافظة المهجرين منها. كما يتم منح البطاقة العائليّة أو الشخصيّة، سواء للمرة الأولى أو بدل ضائع أو تالف، بناء على ضبط شرطة. كما تقوم إدارة الشؤون المدنيّة بمعالجة كافة المشاكل والصعوبات التي تعترض المواطنين في تسجيل واقعاتهم أو الحصول على صور عن قيودهم المدنيّة عن طريق مراسلة مديرية الشؤون المدنيّة في المحافظة التي يتبعون لها.

تقوم وزارة المصالحة الوطنيّة **بتسهيل عودة المواطنين الموجودين** خارج سوريا ممن لا يمتلكون وثائق ثبوتية، وتسهيل وتيرة تسويّة أوضاعهم.

11. الحق في التعليم، الفقرة (40) والقسم (F) من التقرير:

الحد من استخدام المدارس كمراكز إيواء:

يُعتبر هذا الهدف أساسياً للحكومة السوريّة، لما لهذه الظاهرة من تأثير على قطاع التعليم، وبفضل الخطوات الحكوميّة المتّخذة في هذا المجال، فقد **تناقص عدد المدارس المستخدمة كمراكز إيواء** منذ بدأ الأوضاع الراهنة التي تمر بها سوريا بشكلٍ ملحوظٍ، حيث كان عدد المدارس المستخدمة كمراكز إيواء في نهاية عام (2011) (1994 مركز)، ليصل العدد عام (2015) إلى (205) مركز فقط، بعد إخلاء المدارس ليتم تأهيلها من جديد وضعها إلى الخدمة التعليميّة.

هذا وتتبع الحكومة السورية نهج لوسائل بديلة تخفف من أثر الأزمة على قطاع التعليم ودفع الطلبة للعودة إلى الانخراط في العمليّة التعليميّة:

على صعيد البنية التحتيّة وتوفير بيئة مدرسيّة مناسبة:

- تأثر قطاع التعليم إلى حد كبير، فقد بلغ عدد المدارس التي دمرتها المجموعات الإرهابيّة خلال الأزمة (331) مدرسة وعدد المدارس المتضررة جزئياً (870) مدرسة لغاية 2016، وقد تمّ صيانة (1000) منها، (400) مدرسة تمت صيانتها عن طريق مديريات التربية، العديد من المدارس تمت صيانتها أكثر من مرة نتيجة التعرض المتكرر للضرر، حيث اتخذت عمليّة تأهيل وصيانة المدارس طابع الاستمراريّة؛

- يتم تأمين غرف صفيّة مسبقة الصنع فيها تجهيزات ضروريّة للعمليّة التعليميّة، بما في ذلك مقاعد وحقائب وقرطاسيّة وتغذيّة مدرسيّة، من خلال تنفيذ عدد من المشاريع مع المنظمات الدوليّة المعنية.

على صعيد المناهج:

- يتم اتباع نهج للتعليم البديل مثل التعاون القائم مع منظمة الأمم المتّحدة للطفولة، اليونيسيف، من خلال مبادرة لا لجيل ضائع؛

- افتتاح الأنديّة المدرسيّة خارج أوقات الدوام الرسمي لتعويض الطلاب عن الدروس الفائتة، وصل عدد هذه الأندية خلال شهري تشرين الثاني وكانون الأول من العام 2015 (597) وعدد المستفيدين منها (209392) تلميذ وتلميذة، في محافظات دمشق ريف دمشق حمص حماة درعا السويداء القنيطرة واللاذقية وطرطوس وحلب والحسكة؛

- طباعة منهاج الفئة (ب) الذي يقوم على فكرة تصميم مناهج دراسية تختصر منهاج كل عامين دراسيين بعام واحد، لصالح الأطفال المتسربين أو الذين تتراوح أعمارهم بين (8-15) سنة ولم يسبق لهم الالتحاق بالمدرسة؛

- تطبيق مشروع المدرسة الإلكترونيّة، لضمان وصول الطلاب إلى مناهج التعليم الرسميّة في كافة المناطق، بعد أن حاولت بعض الجماعات الإرهابيّة المسلحة منع الطلاب من الالتحاق بالمدارس التي تدرس مناهج حكوميّة وفرض مناهج خاصة بها.

معالجة التسرب المدرسي:

- إطلاق مبادرة أوراق التعليم الذاتي بالتعاون مع عدد من الجمعيات الأهلية وتستهدف المتسربين من المدارس في المناطق التي يصعب الوصول إليها، وقد تم طباعة قسم منها وهي قيد التوزيع؛

- تطبيق دورات تدريب مهنية، للمقيمين داخل وخارج مراكز الإيواء ممن تجاوز عمرهم مرحلة التعليم الاساسي بهدف تأمين فرص عمل لهم؛

- إصدار تعليمات بالتشدد بتطبيق نص القانون (7) لعام 2012، وهو قانون التعليم الإلزامي وتعليماته التنفيذية، فيما يتعلق بالمواد التي من شأنها الحد من التسرب المدرسي؛
- تنفيذ حملات توعيّة للأطفال للتشجيع على الالتحاق بالمدرسة ومكافحة التسرب؛
- وجهت وزارة التربية بعدم التشدد في موضوع **اللباس المدرسي** لعدم إرهاق أولياء التلاميذ مادياً إلى جانب قبول الأطفال دون الأوراق الثبوتيّة المعتادة للتخفيف من بيروقراطية العمل على الأهالي؛

تقوم وزارة التربيّة ومديرياتها بتوفير إحصاءات دورية بكل ما يتعلق بأوضاع التلاميذ، سواءً المتسربين أو العائدين من التسرب.

الدعم النفسي للطلاب:

يتم تنفيذ دورات الدعم النفسي والاجتماعي للمرشدين النفسيين لتأهيلهم لتقديم المساعدة للأطفال المتأثرين بالأزمة، كما يجري العمل على إعداد دليل موحد للدعم النفسي في المدارس.

12. الحق في الغذاء، القسم (D) من التقرير المتضمن الفقرات (42- 42- 43- 45):

نُشير بدايّةً إلى أنّ **سياسة الدعم الحكومي للسلع الضروريّة** لا تزال مستمرةً، مع تعديل بعض إجراءاتها بحيث تصب في مصلحة الأسر النازحة والفئات الأكثر حاجة للدعم الإنساني.

لاحظ التقرير الدور الذي لعبه نقص التمويل الذي اعترى بعض خطط المنظمات الدوليّة في الأثير بشكل كبير على التمتع بهذا الحق، مثل البرامج المنفذة من قبل منظمة الأمم المتّحدة للطفولة، اليونيسيف، وبرنامج الغذاء العالمي.

نشدد أخيراً على **الأثر الكبير للتدابير الأحاديّة القسريّة** التي طالت عدد من القطاعات الحيويّة التي من شأنها ضمان الأمن الغذائي للشعب السوري، وعلى رأسها القطاع الزراعي الذي يشكل أساس معيشة قطاع واسع من السوريين، ومصدر لتأمين الاحتياجات المحليّة من المواد الغذائيّة، وكنا نأمل أن تلقى هذه الناحيّة اهتماماً أكبر من المقرر.

13. الحق في الصحة، القسم (E)، خاصةً الفقرات (47) و(48) و(49):

نود أن نذكّر هنا بعض إجراءات وزارة الصحة في هذا المجال، حيث عملت على ربط مراكز الإيواء بالمراكز الصحيّة لتقديم الخدمات العلاجيّة والرعاية الصحيّة للأطفال والحوامل وتقديم خدمات التلقيح وعلاج الأمراض المزمنة بما في ذلك التقديم المجاني للأدويّة اللازمة لهذه الأمراض.

ويحتل الأطفال النازحين أولويّة في حملات تلقيح الأطفال التي يتم تنفيذها في مراكز الإيواء أو أماكن تواجد النازحين، بالاعتماد على فرق جوالة، مثل الحملات الوطنيّة لشلل الأطفال والحصبة.

تتابع وزارة الصحة على تقديم التوعيّة والتثقيف الصحي في مراكز الإيواء للوقاية من الأمراض الساريّة وغير الساريّة التي تنتقل عبر الماء والغذاء والجهاز التنفسي.

أما استهداف المراكز الصحيّة؛ فكما ذكرنا أعلاه المراكز الصحيّة والعاملين فيها هدفاً مستمراً للمجموعات الإرهابيّة المسلحة التي عمدت إما إلى **تدميرها** أو الاستيلاء عليها **لاستخدامها لأغراض عسكريّة**، أو لمعالجة عناصرها مقابل حرمان المدنيين من خدماتها.

14. حقوق المرأة:

أشار التقرير في بعض الفقرات مثل الفقرة 64 إلى أنّ النساء والأطفال يشكلون الأغلبيّة في مراكز الإيواء، وفي هذا دليل على التزام الحكومة السوريّة بتقديم الحماية والمساعدة لكافة مواطنيها، حتى **أسر من يقاتلون ضدها ويقيمون في مراكز الإيواء التي تشرف عليها**، والحديث عن أي هواجس أمنيّة لدى الذكور هو أمر غير مقبول، خاصةً في ظل **عمليات تسويّة الوضع المستمرة** التي تطلقها الحكومة السوريّة بهدف إعطاء فرصة لمن حمل السلاح ضد الدولة، أو من تورط بأي أعمال مخالفة للقانون، لتسوية وضعه والعودة للاندماج بشكل طبيعي بالمجتمع.

في الفقرة (65) نقرأ عن انتشار **ظاهرة الجنس من أجل البقاء**، وهنا نرفض ما ورد حول انتشار هذه الظاهرة في مراكز الإيواء في الأماكن التي تقع ضمن سيطرة الحكومة، فنصوص قانون منع ومكافحة الاتجار بالبشر واضحة ومطبقة في كل

الأراضي الخاضعة للحكومة السوريّة، وهذه النصوص تولي اهتمام خاص بالنساء والأطفال من ضحايا هذه الجرائم.

من الجدير ذكره أنّ الحكومة السوريّة تركز في معالجتها لأثر ظاهرة النزوح على المرأة على جوانب الرصد والحماية والتمكين، على سبيل المثال؛ أعدت وزارة الشؤون الاجتماعيّة، بالتعاون مع عدد من الهيئات الوطنيّة والدوليّة استراتيجيّة متكاملة تهدف للرصد والإبلاغ وتوسيع نطاق الوصول إلى الفئات الأكثر عرضة للخطر والعنف ونشر الوعي بمختلف أشكاله. كما تُقيم دورات متعددة لقطاعات معينة، مثل الصحفيين، في مجال الرصد والتوثيق، بالتعاون مع منظمة الأمم المتّحدة للطفولة، اليونيسيف، وصندوق الأمم المتحدة للسكان، ومفوضيّة الأمم المتّحدة لشؤون اللاجئين.

وفي مجال الحمايّة، فقد اطلع المقرر على تجربة الوحدة الخاصة التي تمّ إنشاؤها لهذا الغرض في وزارة الشؤون الاجتماعيّة، كما أنّ وزارة الشؤون الاجتماعيّة، بالتعاون مع عدد من المنظمات غير الحكومية الدوليّة، بصدد افتتاح مركزين لرعاية المرأة والطفل من النازحين داخلياً، لا سيما الناجيات ممن يكن قد تعرضن لتجربة عنف جنسي في أماكن تواجد المجموعات الإرهابيّة.

عموماً؛ يحتاج التقرير إلى إعادة تدقيق فيما يتعلق بحالات العنف الواقعة على النساء، بحيث يتم ذكر أسباب ومكان وقوعها، الذي هو في المناطق التي تنشط فيها المجموعات الإرهابيّة المسلحة، حيث تتعرض المرأة إلى أسوأ أنواع العنف النفسي والجسدي.

نُشير هنا إلى أنّه قد تم تحويل توصيات لجنة اتفاقيّة القضاء على كافة أشكال التمييز ضد المرأة (سيداو) والصادرة عقب مناقشة التقرير الأخير للجمهورية العربيّة السوريّة أمام اللجنة، عام 2014، إلى خطة عمل تنفيذيّة، يجري العمل على متابعتها من قبل كل الجهات الحكوميّة، كما يجري العمل على رسم ملامح خطة وطنية لحماية وتفعيل دور الأسرة السوريّة في ظل الأوضاع الراهنة التي تمر بها سوريا.

15. حقوق الطفل:

الفقرة (67) حول مزاعم تجنيد الأطفال:

تذكر المقرر هنا باتباع المشرع السوري **عقوباتٍ مشددةٍ** تضمنها القانون رقم (11) لعام 2013، من خلال فرض عقوبات تبدأ من الأشغال الشاقة المؤقتة مروراً بالمؤبدة وحتى الإعدام في حال التسبب في وفاة الطفل، كما يتم بالتعاون مع اليونيسيف إعداد خطة وطنيّة للتعامل مع قضايا تجنيد الأطفال وآثار انتشار هذه الظاهرة، خاصةً التعامل مع الأطفال الضحايا.

تعمل الهيئات المعنيّة في الحكومة السوريّة، بالتعاون مع منظمة الأمم المتّحدة للطفولة، اليونيسيف، على إعداد خطة عمل لمنع وإيقاف الانتهاكات ضد الأطفال، وذلك في إطار توصيات الفريق العامل لمجلس الأمن المعني بالأطفال والنزاعات المسلحة.

لم الشمل والفصل الأسري:

تعمل وزارة الشؤون الاجتماعيّة بالتعاون مع منظمة الأمم المتّحدة للطفولة، اليونيسيف، على **مشروع لم الشمل والتعقب الأسري للأطفال المنفصلين وغير المصحوبين** في العديد من المحافظات السوريّة، ويتم تقديم خدمات اجتماعيّة للأطفال غير المصحوبين والمنفصلين عن ذويهم بهدف إلحاقهم بأسرهم أو بأسر بديلة. ويبدأ العمل في المشروع من خلال تأمين مراكز إقامة مؤقتة آمنة للأطفال، ثم العمل على تنظيم استمارات خاصة بهم والتواصل مع جميع الجهات ذات الصلة، الحكوميّة وغير الحكوميّة، للمساعدة في أي معلومات تساعد في هذا المجال.

16. اللاجئون الفلسطينيون:

بالنسبة لما ورد في الفقرة (71)، نؤكد استمرار جهود الحكومة السوريّة في **وضع وتنفيذ برامجها** في هذا المجال، بالتعاون مع شركاءها المحليين والدوليين، مثل وكالة الأمم المتّحدة لإغاثة وتشغيل اللاجئين الفلسطينيين في الشرق الأدنى، الأونروا، والهيئة العامة للاجئين الفلسطينيين، بما يضمن استمرار تقديم المساعدات الإغاثيّة، وتقديم الخدمات التعليميّة والطبيّة، من خلال نشر نقاط تقديم هذه الخدمات في أماكن تواجد اللاجئين الفلسطينيين الذين تعرضوا للنزوح.

تتابع الهيئة العامة للاجئين الفلسطينيين نشر متخصصين اجتماعيين هدفهم رصد ومتابعة قضايا اللاجئين وإيجاد حلول لها، وذلك بالتنسيق مع وكالة الأونروا.__

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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on the human rights of internally displaced persons on his mission to Iraq: comments by the State*

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the comments by the State on the report of the Special Rapporteur on the human rights of internally displaced persons, Chaloka Beyani.

* Reproduced as received.

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ملاحظـــات عامـــة حـــول ملاحظات على تقرير المقرر الخاص المعني بحقوق الانسان للمشردين داخلياً عن بعثته الى العراق

اولا: مصطلح المشردين داخليا

- المصطلح هو ترجمة لكلمة displaced، والمشرد من الناحية اللغوية هو تشريد الشخص وتركه بدون مأكل أو مأوى.
- تستخدم وزارة الهجرة والمهجرين مصطلح (نازح)، وهو فيما يبدو اقرب من الناحية القانونية واللغوية لوصف حال المواطنين العراقيين الذي تعرضت مناطقهم لاحتلال تنظيم داعش الارهابي، كون النزوح يشير الى تغيير مكان السكن بشكل مفاجئ ومؤقت الى اماكن سكن بديلة. اما مصطلح التشرد فهو يدل على بقاء الشخص بلا مأوى او مأكل وهذا قد يعطي انطباعاً بان الحكومة والمؤسسات المعنية أهملته ولم تهتم بوضعه الاستثنائي وهذا الامر لم يحصل، لان هناك اهتمام وسعي كبير من الحكومة لحل مشكلة هؤلاء المواطنين فضلا عما وفرته من تخصيصات مالية واتخاذ سياسات واجراءات للحد من تدهور اوضاعهم. ونحن هنا نميل لمصطلح النزوح اكثر من مصطح التشرد.

ثانيا: مصطلح تنظيم الدولة

- تحدث التقرير عن مصطلح تنظيم الدولة 30 مرة، وعرّف التقرير تنظيم الدولة تعريفاً مختصراً بأنه (المعلن ذاتياً في العراق والشام، المعروف بإسم داعش).
- لم يصف التقرير تنظيم داعش بأنه كيان ارهابي ولا مرة في التقرير.
- يتحفظ العراق على استخدام مصطلح تنظيم الدولة في التقرير ويطالب تغييره الى مصطلح تنظيم او كيان داعش الارهابي وفقا لقرارات مجلس الامن الدولي والجمعية العامة للامم المتحدة ولكافة الخطابات والتصريحات الرسمية لمختلف دول العالم ولاسيما الدول المنضوية تحت لواء التحالف الدولي، ولن يتعامل العراق الا مع الوصف الدقيق للتنظيم وهو تنظيم داعش الارهابي اينما حلت عبارة تنظيم الدولة في التقرير.

- ان كثرة استخدام تنظيم الدولة دون وصفه بالارهاب يغاير الحقائق على الارض ولا يعكس مدى مشروعية واحقية الحرب التي تخاض ضده بوصفها حرب ضد الارهاب.

ثالثا: مصطلح النزاع واطراف النزاع

- تحدث التقرير في اكثر من فقرة من فقراته عن مصطلح النزاع واطراف النزاع والنزاع المستمر.
- يرفض العراق استخدام هذا المصطلح للاشارة الى الحرب ضد تنظيم داعش الارهابي وذلك لان القوات الامنية العراقية بمختلف صنوفها لا يمكن ان توضع في اطار نفس المقياس مع هذا التنظيم الارهابي، وهي ليست طرفا في نزاع معه، وانما هي تخوض حرباً ضد الارهاب دفاعاً عن سيادة وكرامة البلد والمواطنين، وبالتالي فان مفردة النزاع اينما وردت في التقرير يرفضها العراق ويتعامل معها على اساس انها حرب ضد تنظيم داعش الارهابي وليست نزاعاً داخلياً او دولياً.

رابعاً: فقرات التقرير

1- تحدثت المقدمة في الفقرة (1) من التقرير، السطر الثالث، بالآتي (إن هدف الزيارة هو دراسة حالة حقوق الانسان للمشردين داخلياً، في سياق النزاع المستمر ضد تنظيم الدولة المعلن ذاتياً في العراق والشام، بإسم داعش).

يرى العراق ان هذه الفقرة تحتاج الى اعادة صياغة تتناسب مع الظروف الموضوعية وواقع الحرب ضد الارهاب، وان تكون الفقرة بعد السطر الثالث على النحو الاتي ((.... وكان الهدف من الزيارة هو دراسة حالة حقوق الانسان للنازحين في سياق الحرب التي يخوضها العراق ضد تنظيم داعش الارهابي (تنظيم الدولة الاسلامية في العراق والشام)، وكذا النظر في الأطر القانونية والسياسات والبرامج الرامية الى التصدي لأزمة النزوح)).

2- الفقرة (3) رحب العراق بكل المنظمات الدولية والشخصيات ذات العلاقة بالملفات الانسانية، وقد تعاملت الحكومة العراقية معهم بكل شفافية، وقدمت كافة التسهيلات لهم من اجل الوصول الى النتائج المطلوبة.

3- تحدثت الفقرة (5) عن موجات النزوح التي تعرض لها العراق في التاريخ المعاصر ويمكن توضيحها وفقاً للاتي:

- الهجرة من الريف الى المدينة.
- هجرة اليهود من العراق.
- هجرة الكورد الفيليين.
- هجرة وترحيل الكورد من مناطق سكناهم.
- هجرة اهل الاهوار بعد تجفيفها.
- الهجرة التي تمت لإسباب اقتصادية وطائفية بعد عام 1968.
- موجة النزوح والهجرة بين عامي 2006-2008.
- موجة النزوح بعد 2014/6/10.

4- اشارت الفقرة (6)، السطر الخامس الى مصطلح (المجموعات المقاتلة) وهو مصطلح عام وغير واضح، ونرى ان يستبدل المصطلح بمصطلح (تنظيم القاعدة وبعده تنظيم داعش الارهابي).

5- الفقرة (7)، في السطر الرابع اشارت الى الاتي (.. وقد جرى توثيق اضطهاد الاقليات في الاراضي الخاضعة لسيطرة تنظيم الدولة على نطاق واسع).

يرى العراق استبدال مصطلح اضطهاد لانه لا يعطي الوصف الحقيق لما قام به تنظيم داعش الارهابي من جرائم بحق الاقليات، وان تكون الصيغة النهائية للفقرة هي (.. وقد جرى توثيق الجرائم والانتهاكات التي ارتكبها تنظيم داعش الارهابي ضد الاقليات على نطاق واسع).

6- الفقرة (7)، السطر الخامس اشار الى الاتي (.. ومنع الكثيرون من دخولها (يقصد بغداد) لإسباب امنية وظل معظم من أتوا من محافظة الأنبار مشردين داخل تلك المحافظة).

يرفض العراق ما ذكر في هذه الجملة وذلك لعد اسباب:

- هناك آلاف العوئل والمواطنين الذين دخلوا محافظة بغداد سواء من الانبار او غيرها من المحافظات والمدن التي احتلها تنظيم داعش الارهابي،

ويسكنوون الان في مناطق مختلفة داخل بغداد وفي المحافظات الوسطى والجنوبية منذ اكثر من سنتين.

- هناك حالات تدقيق محدودة تجري للشباب من اجل ضمان وضعهم القانوني وعدم حدوث خرق من قبل عناصر تنظيم داعش الارهابي لهم.
- ان التقرير ذاته اشار في اكثر من مكان الى التخوف والحذر من اختراق عناصر تنظيم داعش الارهابي لبعض المخيمات وللمواطنين، مما يعد خرقاً امنياً لابد للقوات الامنية التعامل معه.
- وعليه فان الجملة التي وردت في الفقرة السابعة، السطر الخامس المشار اليها اعلاه يرفضها العراق ونطالب بحذفها من هذه الفقرة.

7- الفقرة (10)، ان السياسة الوطنية للنزوح الي تم اعدادها من قبل وزارة الهجرة والمهجرين فُعّلت وأتت بنتائج جيدة ما بين عامي 2006-2008 وأغلقت ملفات الاف من النازحين، ولكن اليوم وبعد جرائم تنظيم داعش الارهابي تحتاج الحكومة الى سياسة جديدة وخطط تلائم المتغيرات التي ظهرت على الساحة، مثل تهجير الاقليات وصعوبات العودة للعوائل والاوضاع الاقتصادية الصعبة التي تمر بها الدولة.

8- الفقرة (12)، ((ان الحكومة العراقية ملتزمة وبكافة وزاراتها بتنفيذ السياسات الخاصة بالنازحين وحمايتهم، حيث تعمل تلك الوزارات في اطار السياسة العامة للدولة كل بحسب اختصاصها في اطار اللجنة العليا المعنية بمتابعة شؤون واوضاع النازحين)). لذلك نرى ان تستبدل الفقرة 12 التي وردت في التقرير بالفقرة أعلاه.

9- الفقرة (14)، السطرين 7 و8 اشارت الفقرة الى (.. وتتطلب تحسين التنسيق بين الوزارات المعنية، بما فيها وزارة الداخلية المسؤولة عن الوثائق ووزارة الهجرة والمهجرين المسؤولة عن تشجيل المشرد داخلياً).

نرى ان تعدل هذه الفقرة وذلك لان هناك اجتماعات متواصلة وتنسيق مستمر بين كل الوزارات المعنية، وان تكون الفقرة وفقا للاتي (... وتتطلب استمرار جهود التنسيق بين الوزارات المعنية، بما فيها وزارة الداخلية

المسؤولة عن الوثائق، ووزارة الهجرة والمهجرين المسؤولة عن تسجيل النازحين داخلياً).

10- الفقرة (15)، قامت الحكومة ومن خلال وزارة الداخلية بأصدار الوثائق الرسمية الجديدة بدلا عن وثائق النازحين المفقودة وذلك من خلال افتتاح عدد من المنافذ لاصدار البطاقات للنازحين.

11- الفقرة (16)، ان حجم النزوح الذي حصل بعد 2014/6/10، احتاج الى امكانات كبيرة للسيطرة عليه، وان إدارة الملف تتطلب مساعدة من الهيئات والمنظمات الدولية المتخصصة، مع الاشارة إلى ان وزارة الهجرة والمهجرين لم تدخر جهداً وعملت بكل امكاناتها وطاقاتها بالتعاون مع المنظمات الدولية واستطاعت تسجيل النازحين وتقديم المساعدات العينية والمادية لهم.

12- الفقرة (17)، تحدثت عن الاتي ((القيود المتكررة المفروضة على وصول العاملين في المجال الانساني)).
ان هذه الفقرة عامة وغير واضحة، فلم تتحدث عن الجهات التي تفرض تلك القيود، وفيما إذا كانت بسبب طبيعة الحرب والخوف على تنقل العاملين في المجال الانساني من الاستهداف من قبل تنظيم داعش الارهابي، ام من قبل جهات اخرى.
وعليه نقترح ان تتوضح هذه الفقرة من خلال الاتي ((القيود التي فرضت على وصول العاملين في المجال الانساني بسبب استهدافهم من قبل تنظيم داعش الارهابي الذي لم يستثن احداً في ارهابه ... الى آخر الفقرة)).

13- تحدثت الفقرة (18) عن نسب النازحين من محافظات الانبار وصلاح الدين والموصل، ولم تحدد من اي المناطق من تلك المحافظات نزحوا ولماذا نسبهم متفاوتة من محافظة الى اخرى، وهذا يعود بسبب سيطرة تنظيم داعش الارهابي على الانبار في عام 2015 بشكل شبه مطلق، وعلى الموصل ايضا، في حين نجد النسبة التي اشار اليها التقرير بخصوص محافظة صلاح الدين منخفضة بحدود 13%، وذلك بسبب استعادة القوات

الامنية لغالبية المناطق في صلاح الدين وعودة معظم الاهالي اليها، في حين لازالت مناطق مثل الشرقاط وبيجي غير مطهرة بشكل كامل وتحت سيطرة التنظيم الارهابي والتي حالت دون عودة باقي العوائل اليها.

14- الفقرة (19)، تحدثت الفقرة عن دراسة استقصائية لـ 44,6% اسرة انها لا تشعر بالامان في اماكن تشردها، ومن غير الواضح فيما إذا كانت مصادر هذا الاستبيان موثوقة وبالتالي يمكن الاعتماد عليه، فلم يحدد التقرير الاماكن التي تشعر بها تلك الأسر بعدم الامان وفي اية مخيمات.
كذلك اشارت الدراسة التي اعتمدها التقرير إلى 42,9% من الأسر تضررت بسبب النزاع المسلح.
وهنا نرى ان الضرر الذي حل بالمناطق التي تشهد صراع هو بسبب دخول تنظيم داعش الارهابي اليها، وليس بسبب النزاع المسلح، لان الضرر والانتهاكات والجرائم التي لحقت بتلك العوائل وبمناطق سكناهم يعود سببه الى احتلال تنظيم داعش الارهابي لها.
اما الحديث عن عزم 97,6% من الأسر العودة الى موطنها الاصلي.
فنشير الى ان الحكومة العراقية سعت منذ سنتين إلى اتباع استراتيجية عودة العوائل الى اماكن سكناها واسفرت تلك الاستراتيجية عن عودة الالاف من تلك العوائل في ديالى وصلاح الدين والرمادي وغيرها من المدن، والعمل مستمر لعودة باقي العوائل.

15- الفقرتين (20-21)، تم انشاء اللجنة العليا لإيواء وإغاثة النازحين من اجل دعم العمل المتعلق بالخدمات المقدمة للنازحين وتسريع الجهود الرامية الى تخفيف معاناتهم والابتعاد عن الاساليب الادارية المعقدة والتي تؤخر تحقيق المساعدات، اما في اقليم كوردستان حيث قامت حكومة الاقليم انشاء مركز التنسيق المشترك للازمات ضمن الصلاحيات التي تتمتع بها.

16- الفقرة (24)، تحدثت عن الاتي ((يجب ان تقدم المساعدات ايضا الى مجتمعات محلية برمتها متأثرة بالتشرد)).
نرى ان هذا الامر عام وغير واضح فمن هي الجهة التي يجب عليها ان تقدم المساعدات في ظل الظروف المالية الصعبة التي تواجهها الحكومة

وفي اطار جهودها وسعيها للقيام بدورها في معالجة مشكلة النازحين، وهذا الامر يتطلب ايضا جهوداً دولية من الهيئات والمنظمات ذات الصلة للتعاون والتنسيق مع الحكومة العراقية.
ونقترح ان تكون الفقرة على النحو الاتي ((يجب تقديم المساعدات ايضا الى مبتمعات محلية متأثرة بالنزوح وهذا العمل يتحقق من خلال التعاون بين الحكومة العراقية والامم المتحدة والجهات الدولية المعنية)).

17- الفقرة (28)، تحدثت عن العقبات القائمة على الهوية الاثنية والدينية في مسألة توزيع الاموال على النازحين، وهذا ربما يشير إلى ان هناك نوع من التمييز في توزيع المساعدات المالية من قبل الدولة.

ونحن نرى ان هذا الامر غير صحيح، فالدولة لا تعتمد التمييز في التعامل مع مواطنيها سواء في تقديم المساعدات الانسانية التي حق طبيعي للمواطنين النازحين على الدولة او في اية مجالات اخرى.

18- الفقرات (28-29)، فيما يخص منحة المليون دينار عراقي هي منحة للطوارئ تم منحها للعوائل التي تركت اماكنها سواء التي استقرت في المحافظات العراقية او في اقليم كوردستان.

19- الفقرة (30)، تعمل وزارة الصحة بالتعاون مع المنظمات الوطنية والدولية المتخصصة على متابعة الملف الصحي للنازحين سواء في بغداد وباقي المحافظات او في اقليم كوردستان، وتوفير اللقاحات والعلاجات لهم.

20- الفقرات (34-35-36)، وهي تتعلق بموضوع حصول النازحين من الطلبة على التعليم، وهنا نذكر ان الاسباب التي ادت الى ترك معظم الطلبة لتعليمهم تعود الى البحث عن فرص العمل بسبب غياب المعيل، وقلة المدارس اوالملاكات التدريسية بسبب أعداد النازحين التي فاقت الاستيعاب.

21- الفقرة (37) تحدثت هذه الفقرة عن الاتي ((... وتقف في وجه توزيع الاغذية عراقيل شديدة في بعض الاماكن بسبب النزاعات والاخفاقات السياسية)).

وهنا نرى:

- ان هذه الفقرة عامة ولم توضح الأماكن التي فيها عراقيل في توزيع الاغذية.
- ان الصعوبات في غالبيتها كانت بسبب الحرب التي تخوضها القوات الأمنية ضد تنظيم داعش الارهابي اكثر من اي شيء آخر، لاسيما في المناطق التي لم يتم تطهيرها لحد الان.
- نرى ان تصاغ الفقرة على هذا النحو ((... وتقف في وجه توزيع الاغذية عراقيل شديدة في بعض الاماكن بسبب احتلال تنظيم داعش الارهابي لها)).

22- الفقرة (39)، تحدثت عن الجهود التي تبذلها المنظمات الانسانية الدولية والوطنية لسد الفجوة من دون ذكر جهود الحكومة في هذا المجال.
نرى ان تعاد صياغة الفقرة لتكون ((.. وتبذل الحكومة والمنظمات الانسانية الوطنية والدولية قصارى جهدها لسد الفجوة... الى اخر الفقرة)).

23- الفقرة (40)، تحدثت الفقرة عن التشديدات والضغوطات التي يواجهها المشردون والفارون من مناطق سيطرة تنظيم داعش الارهابي بشكل عام ولم تحدد المناطق التي فيها ضغوطات وتشديدات.
وهنا نرى ان الحكومة العراقية بمختلف محافظاتها استوعبت الغالبية العظمى من النازحين سواء في المخيمات او المدارس او في بيوت خاصة، ولم تمنعهم من الفرار من داعش، بل ان القوات الامنية ساهمت بشكل كبيرة في فتح العديد من المنافذ للخروج من المناطق التي تخضع تحت سيطرة داعش الارهابي الى مناطق اكثر أمناً.

24- الفقرة (41)، تحدثت عن ان قوات الجيش منعت الاهالي من العبور نحو بغداد.
ونرى هنا ان هذا الكلام مجافٍ للحقيقة تماماً، حيث قامت قوات الجيش ومختلف القوات الامنية بقصارى جهودها لتسهيل عبور آلاف العوائل نحو بغداد ومنها الى بقية المحافظات في وسط وجنوب العراق.

كما تجدر الاشارة في هذا المجال ايضا ان تنظيم داعش الارهابي عمل على منع خروج العوائل من امامن سكناها واستخدمهم دروع بشرية لمنع تقدم القوات الامنية في اطار سعيها لتحرير المدن التي تقع تحت سيطرة هذا التنظيم الارهابي.

25- الفقرة (42)، تحدثت عن رفض المسؤولين في محافظة بابل استقبال الرجال المشردين.

وهنا لابد من الاشارة إلى قيام بعض الاجهزة الامنية بأجراءات احترازية معينة ووفقا لطبيعة الظروف والمخاطر والتهديدات التي تواجهها والعمليات الانتحارية التي حصلت هي اجراءات مؤقتة وليست دائمية، كما في الكثير من دول العالم، ولا يمكن ان ينظر لها على انها حالة عامة، ففي الوقت نفسه قامت هذه المحافظة وغيرها على مدار سنتين 2014-2016 بأستقبال العوائل النازحة من المناطق المحتلة من قبل داعش، بما فيها القادمة من محافظة الأنبار ولم تستخدم اية عبارات طائفية في التعامل معهم ويتم التعامل معهم على اساس التعامل الوطني الانساني بغض النظر عن الطائفة والهوية الاثنية او الدينية.

26- الفقرة (43)، تحدثت بصورة طائفية عن التشرد الذي طال 1800 شخصاً تحت عبارة ((العرب السنة))، ولم تتناول سبب تشريدهم، ولم تشر الى الجرائم والانتهاكات التي ارتكبها تنظيم داعش الارهابي بحقهم.

27- الفقرة (43)، تحدثت عن رفض سلطات اقليم كوردستان السماح للاشخاص او المساعدات الانسانية بالدخول الى المناطق الآمنة بسبب مزاعم تأييد الطائفة لتنظيم داعش الارهابي.

وهنا نرى ان هذا الامر فيه مغالطة كبيرة وغير صحيحة، فالدولة لا تتعامل مع أي طائفة على اساس ان تنظيم داعش الارهابي يتحدث بأسمها، وقد سعت في خطاباتها وسياساتها الى الفصل بين التنظيم الارهابي وبين الانتماء العراقي. بل كان ومازال الخطاب السياسي العراقي واضحا ان داعش الارهابي لا يمثل جهة او مكون او انتماء او دين او قومية، بل هو

تنظيم ارهابي يتستر بغطاء الاسلام، يستهدف كل تلك الانتماءات، ولم تسلم منه اية جهة من الجهات.

اما فيما يخص موضوع الكفالة فهو جزء من الاجراءات الامنية التي حاولت الحكومة العراقية اتباعه في بعض المناطق للحيلولة دون حدوث اختراقات من قبل تنظيم داعش الارهابي واستغلال موجة النزوح للقيام بأعمال ارهابية في المناطق التي استقرت فيها العوائل النازحة ضمن سياسة التنظيم العدوانية لخلق الفتنة داخل المجتمع العراقي.

28- الفقرات (44،45، 46)، اعتمد التقرير على تقرير منظمة هيومن رايتس ووتش، وفي الغالب فأن تقارير وبيانات المنظمة التي تصدرها عن العراق تحتوي على مغالطات بعيدة عن الحقيقة ولا تستند الى تقييم او رصد ميداني دقيق.

29- الفقرة (47)، تم استحداثها حيث لم تكن موجودة في المسودة الاولى في التقرير الذي عرض على الحكومة العراقية، وهي مرفوضة بالكامل لانها تثير النعرات الطائفية، وتتهم قوات الامنية بالتمييز الطائفي واتهام لما يسمى (بالمليشيات) بشأن الاعتداء على بيوت المواطنين وترديد شعارات طائفية، وهو ما دفع الاف النازحين لمغادرة بغداد الى اربيل حسب ادعاء التقرير.

ان هذه المعلومات غير صحيحة واذا كانت هناك حالات فردية صدرت من اشخاص فأن الحكومة العراقية والقوات الامنية المقاتلة بكل صنوفها رفضت تلك التصرفات الفردية، وأكدت انها لا تمثلها وتبرأت منها، بل وحاربتها.

ان الحالة العامة لمختلف المدن العراقية التي احتضنت النازحين بعد هروبهم من تنظيم داعش الارهابي تشير الى اندماج هؤلاء في المناطق التي نزحوا اليها وتم تسجيل ابناءهم في المدارس والجامعات واعطائهم الاولوية في ذلك.

ان الشعب العراقي توحد بكل مكوناته واطيافه لمقاتلة تنظيم داعش الارهابي، واصبحت فصائل الشعب المتمثلة بالحشد الشعبي والحشد العشائري تقاتل جنباً الى جنب مع القوات الامنية تحت لواء وراية القوات

المسلحة العراقية، وتعمل بأمر القائد العام للقوات المسلحة، في اطار هدف أسمى هو تحرير الاراضي المغتصبة من تنظيم داعش الارهابي واعادة العوائل النازحة الى مناطق سكناها.

30- الفقرة (48-49)، تحدثت ايضا عن اتهامات ضد القوات الامنية ونحن نرفض هذه الفقرة ايضا.

31- الفقرة (52)، عبرت عن أن المساعدات التي قدمتها الحكومة ضئيلة وهزيلة واعتبرت ضمنا ان المساعدات التي قدمتها المنظمات الوطنية والدولية افضل.
هنا نرى ان ذلك يعد غبناً لجهود ودور الحكومة العراقية خلال السنتين الماضيتين على الرغم من الظروف الامنية والاقتصادية التي تمر بها.
ونقترح ان تصاغ الفقرة على النحو الاتي ((... وتقدم الحكومة والمنظمات الوطنية والدولية مساعدات .... الى اخر الفقرة)).

32- الفقرة (53)، نرى ان تعدل صياغة الفقرة وتكون ((يعاني الاطفال المشردون بسبب تنظيم داعش الارهابي قلقاً يتصل ..... الى آخر الفقرة)).
كما تحدثت هذه الفقرة عن مصطلح (المجموعات المسلحة) ولم تحدد القصد منها واي الجهات تشمل.
ونقترح ان يستبدل هذا المصطلح بتنظيم داعش الارهابي الذي قام خلال السنتين الماضيتين بعمليات تجنيد واسعة للاطفال واقامة معسكرات خاصة بهم وتعليمهم التشدد والغلو في الدين واستخدام مختلف انواع الاسلحة فضلا عن اشراكهم بعمليات عسكرية وقد تناولت هذا الموضوع مختلف وسائل الاعلام العالمية.

33- الفقرة (55)، ان ما يشهده العراق ليس نزاعاً مسلحاً بين القوات الامنية وتنظيم الدولة حسب ما يدعي التقرير، وانما هي حرب تخوضها القوات الامنية بمختلف صنوفها ضد تنظيم داعش الارهابي والذي يعد المسؤول الاكبر عن الجرائم والانتهاكات التي حصلت ضد المواطنين العراقيين ومن ضمنهم الاقليات.

34- الفقرة (56)، ان المجتمع العراقي اتسم بالتعايش السلمي والاندماج بين مكوناته الاجتماعية كافة، ولم يشهد العراق حالة التمييز بين مكوناته، ولكن الجماعات الارهابية المتمثلة بتنظيم القاعدة والجهات المرتبطة به، وبعد تنظيم داعش الارهابي عملت على خلق الفتنة بين ابناء المجتمع العراقي ولم تتمكن من ذلك، حيث اثبتت ارادة الشعب العراقي في كل مرة ان حالة التعايش والتكاتف بين مختلف المكونات هي الاساس للوحدة الوطنية، وما كانت ازمة النزوح القسري التي تعرض لها بعض ابناء الشعب العراقي واحتوائهم من قبل المحافظات والمدن العراقية الا دليلاً على وعي الشعب وايمانه بوحدته الوطنية جغرافياً واجتماعياً.

35- الفقرة (57)، تحدثت الفقرة عن تقرير غير معروف ولا يتسم بالموضوعية في الطرح لاسيما حين اشار الى العنف الموجه ضد المسيحيين، ولم يحدد الجهة التي تستخدم هذا العنف حيث كان المصطلح عاماً وغير دقيق..
ونرى هنا ان يعاد صياغة الجملة لتكون كالاتي ((.. وأدت درجة العنف الموجه من قبل تنظيم داعش الارهابي .... الى اخر الفقرة)).

36- الفقرة (58)، نرى ان يعدل السطر الاول فيها ليكون ((وادت حملة ممنهجة يشنها تنظيم داعش الارهابي من اجل ... الى اخر الفقرة)).

37- الفقرة (65)، تحدثت عن مفردة المليشيات، ولم يحدد القصد منها (المليشيات)، واشار الى قرب معسكراتها من اماكن تواجد المشردين، وهو يتحدث هنا في اطار اقليم كوردستان، فإن كان يقصد البيشمركة مثلا، فهي لا تعد مليشيات، وانما قوات نظامية تحت مسمى حرس الاقليم، أم يقصد جهات أخرى.

38- الفقرة (66)، عن ان الجيش قام بأحتجاز افراد اسرة من الذكور، ولم يحدد عن اي جيش يتحدث داخل الاقليم، حيث لا يوجد سوى البيشمركة (حرس الاقليم)، اما الجيش المرتبط بالحكومة الاتحادية فأن حدود تواجده خارج اطار الاقليم.

39- الفقرة (67)، تحدثت عن ظروف النزاع، ونرى هنا ان تستبدل هذه الكلمة وتكون ((بسبب الحرب ضد تنظيم داعش الارهابي)).

40- الفقرة (69)، تحدثت عن تشيجع الحكومة لعودة المشردين الى اماكن معين دون اجراء تقييم كامل للسلامة والامن في تلك الاماكن، وذلك حسب ادعاء التقرير.

وهنا نرى ان هذا الامر غير صحيح، لان الشرط الاساس لدى الحكومة العراقية هي ضمان امن وسلامة المناطق التي يتم تحريرها قبل اعادة النازحين اليها، لاسيما ان اغلب المناطق التي تم تحريرها قام تنظيم داعش الارهابي بتفخيخها وملء الطرقات بالعبوات الناسفة من اجل ايقاع اكبر اذى بالمواطنين والقوات الامنية، لذلك فالحكومة حريصة اشد الحرص على تامين المدن قبل اعادة النازحين اليها.

ان الحكومة العراقية بكل الجهات الفاعلة في هذا الملف مثل وزارات (الهجرة والمهجرين والدفاع والداخلية والصحة والتعليم العالي والتربية) عملت ولا زالت تعمل بروحية الفريق الواحد من اجل تسهيل عودة النازحين الى مناطقهم المحررة وذلك بإزالة كل المعوقات وايصال الخدمات الى تلك المناطق.

41- الفقرة (70)، تحدثت عن الحاجة الى العدالة والمصالحة وبناء الثقة بين الحكومة والطوائف، في حين ان مشكلة الدلوائف والمكونات ليست مع الحكومة بالمطلق، بل مع تنظيم داعش الارهابي والجرائم والانتهاكات التي ارتكبها بحقها، ومن جانب الحكومة فهي مستمرة ضمن استراتيجيتها في تحقيق المصالحة الوطنية وتعزيز الثقة المتبادلة والاندماج الاجتماعي بين مكونات المجتمع كافة.

42- الفقرة (77)، لم يكن النزاع المسلح هو السبب في حصول النزوح الداخلي الجماعي وانما تنظيم داعش الارهابي هو السبب الاول والمباشر، لذلك تحتاج هذه الفقرة الى اعادة صياغة وتعديل لتكون وفقا للآتي ((... منذ منتصف 2014، ان الهجوم الذي قام به تنظيم داعش الارهابي واحتلاله

عدداً من المدن العراقية ادى الى سيناريو النزوح الداخلي الجماعي .. الى اخر الفقرة)).

43- الفقرة (78)، يفترض ان تكون هذه الفقرة على النحو الاتي ((ندعم ونشجع الحكومة العراقية في تكثيف جهودها وان تخصص... الى اخر الفقرة)).
لان كلمة ينبغي تعني ان الحكومة لم تتخذ اجراءاتها ولم تقم بواجبهاتها وهذا غير صحيح، فالحكومة ما زالت تقوم بجهودها رغم طبيعة الاوضاع المالية والامنية التي تمر بها الدولة.

44- الفقرة (93)، تحدثت عن منع تجنيد الاطفال بشكل عام، في حين ان تنظيم داعش الارهابي هو من يقوم بعمليات التجنيد واقامة المعسكرات الخاصة بالاطفال لغرض تجنيدهم واطلق عليهم تسمية (فتيان الخلافة).

45- الفقرة (96)، نقترح ان تكون كالاتي ((التي استهدفها تنظيم داعش الارهابي وتسبب بنزوحها ومنع عودتها الامنة)).

46- كانت التوصيات التي جاء بها التقرير وفق مصطلحات (يجب - ينبغي - ولم تتضمن مفردات تحتوي التشجيع والدعم والتثمين للجهود الحكومية لما قامت بها من اجراءات وسياسات في ظل الظروف الاستثنائية الامنية والاقتصادية طيلة السنتين الماضيتين).